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A SURVEY OF STATE EXECUTIVE  
ORGANIZATION AND A PLAN  
OF REORGANIZATION

BY  
CHARLES HOLLOWAY CRENNAN

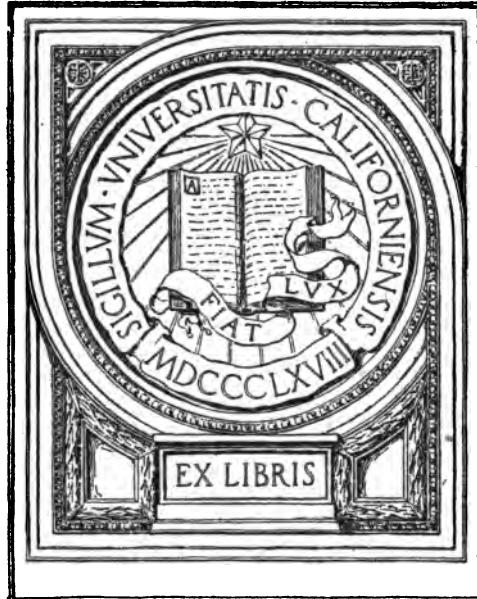
A THESIS

PRESENTED TO THE FACULTY OF THE SCHOOL OF  
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THE DEGREE OF MASTER OF EDUCATION IN PEDAGOGY

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**A SURVEY OF STATE EXECUTIVE  
ORGANIZATION AND A PLAN  
OF REORGANIZATION**

**BY  
CHARLES HOLLOWAY CRENNAN**

**A THESIS  
PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN  
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR  
THE DEGREE OF DOCTOR OF PHILOSOPHY**

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## CHAPTER I

### PRESENT ORGANIZATION OF THE STATE EXECUTIVE

*Why is the State executive being scrutinized these days?*

The work of State government has grown rapidly for more than fifty years without the problems involved in that development becoming a cause of general anxiety. Lately, however, it has come home to us that the new governmental functions, comprising over three-fourths of the activities of most States, are costing a huge sum of money. We have discovered that we cannot afford to sit quietly by while our tax rates rise.

The increased work of government has fallen almost wholly to the State executive. How effectively that executive work is carried on has become a matter of more than academic interest. Executive positions have come to mean something other than posts of honor and political rewards.

Our problem has two possible solutions. We could eliminate public health service and stop regulating the conditions of labor in factory, mine and sweatshop; we could abandon the policy of business protection and regulation; we could curtail educational, charitable, and correctional work; we could let weeds grow wild in the public highways. It is conceivable that we could do all these things, and more,—but it is not likely that we shall give over the new idea of governmental *service*. We are going to see to it that State activities are carried on by an efficient, responsible State executive.

#### *What Is the State Executive?*

State constitutions include in the article devoted to "The Executive" the Governor,<sup>1</sup> Lieutenant-Governor,<sup>2</sup> Secretary of State, Attorney-General, Treasurer, Auditor,<sup>3</sup> and perhaps one or two more officials.<sup>4</sup>

<sup>1</sup> In four States,—Maine, Massachusetts, New Hampshire, North Carolina—the constitutions provide Executive Councils to advise the Governor. For a summary of the provisions relating to these executive councils see *Index Digest of State Constitutions*, pp. 713-717.

<sup>2</sup> Ariz., Ark., Fla., Ga., Me., Md., N. H., N. J., Ore., Tenn., Utah, W. Va., and Wyo. are exceptions to this general statement. These States have no Lieutenant-Governor.

<sup>3</sup> For a convenient list of the States in which these officers are found, see Stimson; *Federal and State Constitutions of the United States*, p. 198. To bring this list up to date, however, reference must be made to the State constitutions themselves.

<sup>4</sup> A few of the older States like Conn., N. H., R. I., have only three of these "State officers" provided for in their constitutions. Eleven States list four; seven States have

However, hidden away in some part of the constitution other than this article we may find additional officers<sup>5</sup> or boards<sup>6</sup> whose duties make them part of the State executive.

Then if we go to the statute books we discover numerous offices, boards, and commissions,—also part of the executive department of State government.<sup>7</sup>

And in Pennsylvania and some other States there is also the practice of creating executive offices by merely increasing appropriations.<sup>8</sup>

Moreover, in all States temporary positions are created from time to time for contingent services.<sup>9</sup>

Last of all come local officers charged with the enforcement of State law, and acting, at least part of the time, as State agents.<sup>10</sup>

This composite body of officers is the State executive.

#### *Executive and Administrative Officers*

The Indiana, Oregon, and Wisconsin constitutions apply the term *executive* only to the Governor and Lieutenant-Governor; the "State officers" are classified as *administrative* officers.<sup>11</sup> A few of the other constitutions,<sup>12</sup> although they do not refer in so many words to "the executive" and "the administrative," separate the same groups of

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six; North Dakota and Oklahoma ten; the Maine constitution is at the other extreme with two. Five is the number most frequently found,—in twenty States. See tabulation, p. 15.

The Superintendent of Public Instruction is classified as an executive officer in twenty-two States; in Calif., Ga., Ind., La., Mich., Miss., Ohio, Va., and Wis., the office is created by the Constitution, but is listed under "education"; the remaining seventeen States do not make provision for the office.

Other "State officers" are: Commissioner of Agriculture and Industries (Ala.), Surveyor-General (Calif.), Insurance Commissioner (Del.), Register Land Office (Ky.), Commissioner Land Office (Mich. and Tex.), Commissioner School and Public Lands (S. D.), Secretary of the Interior (Pa.).

The term "State officers" is frequently used to describe these constitutional officers,—see for example the Wyoming constitution. The term does not include the Governor, Lieutenant-Governor, or military officers. When the Superintendent of Public Instruction or other constitutional officer is not listed in The Executive, he too is excluded. "State officers" is a convenient term which will hereinafter be understood to mean the constitutional officers thus defined.

"State officers" vary not only in number but in the order of naming; the arrangement of names, however, is not a matter of consequence, as it does not regularly have any succession significance. See *Index Digest of State Constitutions*, pp. 736-743, for succession to office provisions in the different States.

officers, and thus recognize the same distinction. Furthermore, statutory boards and officers are frequently called administrative rather than executive. But State constitutions and statutes do not define the two terms, and the basis for differentiating the classes of officers is not always clear. Executive officers may be said to have certain discretionary or policy-formulating powers; they express as well as administer the State will. Administrative officers, on the other hand, may be looked upon as performing purely ministerial duties,—specifically laid down in the law. They are not concerned with the expression of social judgments, but only with enforcing a particular part of the State law.<sup>13</sup> Just where

<sup>13</sup> For example, a State Engineer or Surveyor; a State Examiner of Banks; a Commissioner of Charities; a State Examiner and Inspector; a Commissioner of Insurance; of State Prisons; of Immigration, Labor, and Statistics; of the Land Office; of Agriculture; a Superintendent of Public Works; a Commissioner of Mines; a Register of the Land Office; State Librarian; a Superintendent of Labor and Agriculture. See Stimson, *Federal and State Constitutions of the United States* (1908), p. 199, for a convenient list of the States where the above named officials are found. These officers, as was indicated in footnote, page 2, are not, in this survey, comprehended in the term "State officers."

<sup>14</sup> Such as the Board of Public Works, in Md. and Va.; Board of Prison Commissioners, as in Mont. and Nev.; State Board of Health, Del.; Boards of Education and Railroad Commissions in many of the States.

<sup>15</sup> A contrary position was taken by the court in *State ex rel Wilder*, 199 Mo. 470, 485; in that case the insurance department was held not to belong to the executive branch of State government. Rare exceptions such as this, however, do not invalidate the above statement.

<sup>16</sup> The *Report of the Pennsylvania Economy and Efficiency Commission* lists (p. 4) 5,152 positions as comprising the State service. Of these 1,168 were created by statute; while 2,752 were created by legislative appropriation. \$1,162,258.90 was paid for those "appropriation positions."

<sup>17</sup> The Pennsylvania executive, in 1914, included 1,232 temporary or contingent positions, for which \$450,590.54 was paid from contingent funds. *Report Pennsylvania Economy and Efficiency Commission*, p. 4.

<sup>18</sup> Some of the State constitutions expressly incorporate a few of these local officers in "the executive." Alabama, for example, so lists county sheriffs.

<sup>19</sup> The Florida constitution designates "State officers" as administrative officers. Article IV, Sections 20 and 28.

<sup>20</sup> The Georgia, Illinois, and New York Constitutions are cases in point. See in connection with this matter of executive and administrative officers, J. Q. Dealey; *American State Constitutions*, p. 169.

<sup>21</sup> "American administrative law has added to the famous trinity of Montesquieu a fourth department, namely the administrative department, which is almost entirely independent of the chief executive, and which, so far as central administration is concerned, is assigned to a number of officers not only independent of the Governor, but also independent of each other." Goodnow; *Comparative Administrative Law*, II, 137.

executive functions shade off into administrative duties is often difficult to determine. Just when an administrative officer becomes executive, by exercising discretionary, or ordinance powers, in his departmental work, is likewise a nice problem. Probably the most that can be said for the two terms is that they indicate a valuable broad distinction; particular officers may be found at once executive and administrative if the attempted differentiation is pushed too far. Unless something is to be gained by separate classification, the executive may be taken to include the administrative.<sup>14</sup>

### *The Executive Defined by Function*

The executive might be defined in terms of function rather than personnel. Most of the State constitutions provide that the functions of one department shall not be exercised by either of the other two departments. They do not, however, expressly set forth the function of the executive department,<sup>15</sup> unless the clause—rarely missing from a State constitution—which provides that the Governor “shall take care that the laws be faithfully executed,” is taken as applicable to the whole department. In the main it is accurate to say that the State executive does have to do with the second of the two functions of government, namely, the carrying out of the expressed will of the State.<sup>16</sup>

### *The Governor the Chief Executive*

Popular reaction towards the Governor as “the executive” is not entirely without basis. Some of the State constitutions specify that “the executive powers of the State shall be vested in a Governor.”<sup>17</sup> He is in all cases recognized as the “chief executive.”

### *Selection and Removal of Governor*

In all the States of the Union the Governor is chosen by popular

<sup>14</sup> As in the Indiana Constitution: “The Executive—which includes the Administrative.”

<sup>15</sup> State constitutions and laws do, of course, provide for the performance of particular duties by particular officers.

<sup>16</sup> See Goodnow (*Politics and Administration*, especially pp. 9 and 22) for the point that although there may be three *departments*, there can be but two *functions* of government.

Partial exception to the above definition of the function of the executive department may be taken on the ground that the Governor helps to express the will of the State, and certain boards exercise quasi-legislative and quasi-judicial powers.

<sup>17</sup> Indiana constitution. Like expressions are found in the constitutions of N. J., N. Y., N. D., Wis., and Wyo.

election. Impeachment is the accepted method of removing him from office.<sup>18</sup>

### *The Governor's Tenure of Office*

The Governor's term varies from one to four years. In twenty-three States the Governor holds office for four years; New Jersey alone gives him a three-year tenure; twenty-three States provide a two-year term; Massachusetts still adheres to annual elections. In eighteen States the Governor is ineligible to succeed himself, or to serve more than a certain number of years in a given period. The following table, compiled from the State constitutions, shows in detail the various provisions regarding the Governor's tenure.

State	Date of Constitution	Term	Eligible for reelection
1. Ala.	1901	4 years	"Ineligible as his own successor."
2. Ariz.	1910	2 "	Yes
3. Ark.	1874	2 "	Yes
4. Calif.	1879	4 "	Yes
5. Colo.	1876	2 "	Yes
6. Conn.	1818 (Amended 1884)	2 "	Yes
7. Del.	1897	4 "	Ineligible for third term.
8. Fla.	1885	4 "	Ineligible next succeeding term.
9. Ga.	1877	2 "	Ineligible after 2nd term for 4 yrs.
10. Idaho	1889	2 "	Yes
11. Ill.	1870	4 "	Yes
12. Ind.	1851	4 "	Ineligible more than 4 yrs. in any 8.
13. Iowa	1857	2 "	Yes
14. Kan.	1859	2 "	Yes
15. Ky.	1891	4 "	Ineligible for 4 yrs.
16. La.	1913	4 "	Ineligible as own successor—eligible after 1 or more terms have expired.
17. Me.	1819 (Amended 1879)	2 "	Yes
18. Md.	1867	4 "	Yes
19. Mass.	1780	1 "	Yes
20. Mich.	1908	2 "	Yes
21. Minn.	1857	2 "	Yes
22. Miss.	1890	4 "	Ineligible as immediate successor.
23. Mo.	1875	4 "	Ineligible as immediate successor.
24. Mont.	1889	4 "	Yes
25. Neb.	1875	2 "	Yes
26. Nev.	1864	4 "	Yes
27. N. H.	1792 (Amended 1902)	2 "	Yes
28. N. J.	1844 (Amended 1875, 1897)	3 "	Ineligible for 3 yrs.

<sup>18</sup> See pp. 724-726, *Index Digest State Constitutions*, for impeachment proceedings against the Governor. In Mich., Kans., La., Ida., Colo., Ariz., Nev., Wash., Ore., Calif., he is subject to the recall.

State	Date of Constitution	Term	Eligible for reelection
29. N. M.	1911 (1914)	4 years	Ineligible for 2 yrs. to hold State office after serving 2 consecutive terms.
30. N. Y.	1846 (Amended 1894)	2 "	Yes
31. N. Car.	1876	4 "	Ineligible more than 4 yrs. in 8, unless office cast on him as Lieut.-Governor or President of Senate.
32. N. Dak.	1889	2 "	Yes
33. Ohio	1913	2 "	Yes
34. Okla.	1907	4 "	Ineligible immediately to succeed himself.
35. Ore.	1857	4 "	Eligible only 8 yrs. in 12.
36. Pa.	1873	4 "	Ineligible for next succeeding term.
37. R. I.	1842 (Amended 1911)	2 "	Yes
38. S. Car.	1895	2 "	Yes (specifically stated)
39. S. Dak.	1889	2 "	Yes
40. Tenn.	1870	2 "	Ineligible more than 6 yrs. in 8.
41. Tex.	1876	2 "	Yes
42. Utah	1895	4 "	Yes
43. Vt.	1793 (Amended 1870)	2 "	Yes
44. Va.	1902	4 "	Ineligible for 4 yrs.
45. Wash.	1889	4 "	Yes
46. W. Va.	1872	4 "	Ineligible for 4 yrs.
47. Wis.	1848	2 "	Yes
48. Wyo.	1889	4 "	Yes

Amendments cited have to do only with the material tabulated; they are by no means all of the amendments to the State constitutions.

See p. 744 *Index Digest of State Constitutions* for sections of constitutions relating to term of office.

See pp. 734-5 *Index Digest of State Constitutions* for sections of constitutions dealing with prior service as a disqualification in office.

Analyzed chronologically, this tabulation shows that short terms of office are generally specified by the older constitutions; yet some of the comparatively recent constitutions provide a two-year term.<sup>19</sup> The historical trend, in the main, is toward a longer term for the Governor.<sup>20</sup> No geographical basis for a generalization appears in the table. Two and four-year terms are about equally distributed in the States, whether south, central, east or west. Nor do political conditions account for short and long terms: the States that have been making the most radical

<sup>19</sup> It is noteworthy, however, that Arizona, New Mexico, and Oklahoma adopted the four year period. Compare Dealey; *American State Constitutions*, p. 161.

<sup>20</sup> See Merriam, *American Political Theories*, pp. 80, 182, for early 19th century increases of tenure.

experiments with direct democracy are not uniformly attached to a short tenure of office.<sup>21</sup>

The ineligibility clauses attaching to the Governor's office were inspired partly by the fear that the chief executive might build up an arbitrary power, but rather more by the apprehension that the Governor's plans to secure reelection would distract his attention from State business.<sup>22</sup> The majority of States, however, do not provide that the Governor shall be restricted as to the number of terms he may serve. Accordingly, the dominant idea is that of continued service.

### *The Governor's Constitutional Powers and Duties*

The Governor's office is one of enumerated powers. These powers, of course, vary somewhat in number and scope in the different States, but a general classification shows the Governor clothed with at least four kinds of powers: military, legislative, judicial, general executive.<sup>23</sup> Commonly he is commander-in-chief of the State's military forces, and possesses authority to call out these troops to execute the laws, suppress insurrection, or repel invasion. The Governor's judicial power has to do with the granting of pardons, reprieves, and commutations. His legislative power subdivides into the veto and message powers,—also the authority to adjourn and call extra sessions of the legislature.<sup>24</sup> His general executive power is found in the following particular powers: "to transact all necessary business" with the other executive officers; to require written reports and information from them; to appoint certain officers; to fill vacancies; to remove officials in the manner prescribed by law. Lastly, he is to see that the laws are faithfully enforced. The Governor's duties may be said to be marked out by his powers.<sup>25</sup>

<sup>21</sup> Arizona, California, Nevada, Oklahoma, Oregon, and Washington, for example, have adopted the four year period. See *Appraisal of the Constitution and Government of New York*.

<sup>22</sup> See report of *Indiana Constitutional Convention of 1850*, and convention debates in other States where the restriction was adopted.

<sup>23</sup> Cf. Dealey; *American State Constitutions*, p. 162.

<sup>24</sup> Under this third general power, the Governor exercises whatever control over financial matters he may have.

<sup>25</sup> For an enumeration of the Governor's constitutional powers and duties, see *Index Digest State Constitutions*, pp. 728-730. For the Governor's statutory powers and duties, reference must be made to the laws of the several States. Powers conferred are usually mandatory; see Jones, *Statute Law Making*, pp. 116-121.



*Powers Inherently Executive*

The powers of appointment, removal, direction, and the ordinance power may be classified as inherently executive. The Governor, however, exercises these powers rather by reason of legal grant than of executive right.<sup>26</sup>

*The Governor's Power of Appointment*

With the recent increase of statutory offices, boards and commissions, the Governor's power of appointment has markedly increased.<sup>27</sup> In New York and some of the larger industrial States the Governor's appointing power is almost burdensome.<sup>28</sup> Usually, however, all such appointments must be ratified by the senate.<sup>29</sup>

"State officers" the Governor almost never appoints; these constitutional officers are regularly elected.<sup>30</sup> And local officers charged with the enforcement of State law are in nearly all cases elected locally,—they rarely owe their positions in any way to the Governor.

*The Governor's Power of Removal*

"State officers," with a very few exceptions, are not removable by the Governor,<sup>31</sup> and over local officers he exercises no power of removal.<sup>32</sup> In nearly every instance the Governor's power to remove

<sup>26</sup> The above is a political science classification. The theory, however, is back of the national executive organization. Occasionally a State court views these powers as "essentially and inherently executive." See, for example, the view brought out collaterally in *Lane v. Commonwealth*, 103 Pa. 481. The usual legal doctrine is that enunciated in *Fox v. McDonald*, 101 Ala. 51 (1892): "With us the Governor has no prerogatives. He must find warrant in the written law for his every official action. . . . In what we have said we have pretermitted inquiry whether or not the act of appointing an officer is *inherently of an executive character*."

<sup>27</sup> Young; *The New American Government and its Work*, p. 315.

<sup>28</sup> In New York (See *Report of the New York Efficiency and Economy Department on the Organization and Function of State Government*) there are more than 150 separate executive units. Indiana has about 60 such appointive boards and commissions (based on a tabular analysis). Pennsylvania has 51 departments and boards created by statute, and 32 boards of control for separate institutions; the Governor's appointing power in the Keystone State is very extensive. Illinois (see the *Report of the Illinois Efficiency and Economy Committee*.) and other States show much the same situation.

<sup>29</sup> Young; *The New American Government and its Work*, p. 316. For the Governor's appointing power, without confirmation, as provided in State constitutions, see pp. 706-707, *Index Digest State Constitutions*,—with confirmation, pp. 707-710.

<sup>30</sup> See tabulation, p. 15.

<sup>31</sup> See tabulation, p. 15.

<sup>32</sup> In a few States—for example, Illinois, New York, Wisconsin, and Michigan—he may remove certain local officers.

executive officers is limited to his appointees.<sup>33</sup> Even in such cases, his power has usually been conferred by law; he does not exercise it by reason of being the chief executive. And the class of officers the Governor has the legal authority to remove, he does not remove, because of extra-legal limitations upon his removal power. His appointments are frequently made "at the behest of the party leader," and "it would be insubordination to dismiss the men so chosen." If the executive holds independent views and ousts an insubordinate official, "he cannot appoint a successor because the Senate, under the direction of the party leader, will refuse its approval."<sup>34</sup>

Besides being limited as to the class of officers he may remove, the Governor is restricted as to the cause and manner of removing them. A usual provision is that he may remove for cause after due notice and hearing.

What constitutes cause is commonly found in the written law; malfeasance in office, neglect of duty, or incompetence are regularly sufficient cause.<sup>35</sup> The courts seem disposed, however, to let the Governor define any one of these causes by his judgment as to the facts of a given case.<sup>36</sup> In other words he is not always required to show cause by laying the facts before a court.

<sup>33</sup> Goodnow: *Comparative Administrative Law*, II, 79. For the Governor's constitutional power, in the several States, to remove public officers, see also *Index Digest of State Constitutions*, pp. 1177, 1178.

<sup>34</sup> Young; *The New American Government and its Work*, p. 318.

In *Lane v. Commonwealth*, 103 Pa. 481 (1883); it was contended that the concurrence of the Senate was necessary for removal, since removals were to be made by "the appointing power." The court held that the Governor was the appointing power (the Senate could prevent appointment, but could not appoint, or even suggest another name) and that the concurrence of the Senate was not necessary to removal.

Cases Contra: *Field v. People*, 3 Ill. 79; *The People v. Carrique*, 2 Hill (N.Y.) 93, 104. In the latter case the court said: "Appointments to office are to be made by the Governor, with the consent of the Senate; removals from office are to be made by the Senate, on recommendation of the Governor." The Pennsylvania case is in alignment with national practice.

<sup>35</sup> See Goodnow; *Comparative Administrative Law*, II, 79. The courts as a rule uphold the provision that the Governor must notify the officer of the cause of removal. See *Commonwealth v. Slifer*, 25 Pa. 23, and *State v. Hawkins*, 44 Ohio 98. In *Dullam v. Willson*, 53 Michigan, 392 (Goodnow's *Cases on Administrative Law*, p. 74) the court said: "The officer is entitled to know the particular acts of neglect of duty, or corrupt conduct, or other acts relied upon as constituting malfeasance or misfeasance in office."

<sup>36</sup> In *Wilcox v. People*, 90 Ill. 186 (abstract in Freund's *Cases on Administrative Law*), the court held: "It (the constitution) simply gives the Governor power to remove any officer whom he may appoint in case of incompetency, etc. It follows

Failure to give due notice and hearing frequently is a legal bar to removal.<sup>37</sup>

Although the removal of an officer is generally considered not a strictly judicial proceeding,<sup>38</sup> in some cases it is so held,<sup>39</sup> and the regularity of the proceedings is open to review by the courts.<sup>40</sup>

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then that it is with the Governor, who is to act in the matter, to determine, himself, whether the cause of removal exists, from the best lights he can get; and no mode of inquiry being prescribed for him to pursue, it rests with him to adopt that method of inquiry and ascertainment as to the charge involved which his judgment may suggest as the proper one, acting under his official responsibility, and it is not for the courts to dictate to him in what manner he shall proceed in the performance of his duty, his action not being subject to their revision."

Accord: *State ex rel Attorney-General v. Doherty*, 25 La. Ann. 119, 13 Am. Rep. 131 (1873); *Keenan v. Perry*, 24 Tex. 253 (1859). In the former case the court said: "The grant of power to the executive to remove an officer for certain cause implies authority to judge of the existence of that cause. The power granted exclusively to the executive cannot be controlled in its exercise by the courts."

The court stated in the Texas case that the Governor is given removal power for certain enumerated causes, and in order that the exercise of such power may be effective and conclusive, it is not necessary that he should assign the causes, or manifest by any official record or otherwise, the particular cause or causes, upon which he acted. The law makes him the sole judge of the existence of the causes of removal.

<sup>37</sup> *Dullam v. Wilson*, 53 Mich. 392; an officer "is entitled to a reasonable notice of the time and place where an opportunity will be given for a hearing, and he has a right to produce proof upon such hearing."

*State ex rel Attorney-General v. Smith*, 35 Nebr. 13; where by law there is no fixed term of office and the incumbent holds during the pleasure of the appointing power, the power of removal is discretionary and may be exercised without notice or hearing. Where the incumbent is elected for a definite period and is removable only for specified cause, the power of removal cannot be exercised until there has been preferred against him specific charges of which he shall have notice, and an opportunity afforded him to be heard in his defense.

In the cases of *Commonwealth v. Slifer*, *Dullam v. Wilson*, *State v. Smith*, and *Page v. Hardin* (all cited herein) the theory of the Common Law is seen, that an officer has a property right in the office, which cannot be taken away without the exercise of his privilege to have the matter finally settled by the courts.

<sup>38</sup> Fairlie; *The State Governor*, p. 19.

*State v. Hawkins*, 44 Ohio, (1886); the power conferred on the Governor to remove police commissioners is administrative and not judicial, so it is not in conflict with the constitutional provision giving judicial powers only to the courts.

<sup>39</sup> In *Page v. Hardin*, 8 B. Monr. (Ky.) 672, (*Goodnow's Cases on Administrative Law*, p. 77,) for example. The court held that no judicial power had been conferred on the Governor, and conviction must be had before the judicial tribunals of the State. The Governor was not allowed to dismiss the Secretary of State without notice, nor to determine cause.

<sup>40</sup> Fairlie; *The State Governor*, p. 18.

In brief then, the Governor may not remove elected "State officers" or local officers; he has only the removal power granted in the constitution or statutes of his State; and this power is subject to the restrictions of legal method of removal or political expediency, or both.

### *The Governor's Power of Direction*

The Governor has practically no power of direction over the "State officers."<sup>41</sup> The only legal basis for any control is the usual constitutional provision that the Governor may demand information in writing from these officers respecting their work, and that they must at stated periods make formal reports to him.<sup>42</sup> The Governor "transacts all necessary business" with "State officers" rather as an equal than a superior. He cannot remove them; they are responsible not to him, but only to the law.<sup>43</sup> Should the Governor attempt any direction or control of these officials, they can with impunity disregard his wishes. And as for other executive officers, the Governor's power to direct them is as negligible as his power to remove them.

The clause commanding the Governor "to take care that the laws be faithfully executed" would seem to be sufficient warrant for his exercising the power of direction. This provision, however, is descriptive, rather than a residuary power clause.<sup>44</sup>

In general, it may be said that the power of direction or control, the managerial power, does not inhere in the chief executive office; the constitutional requirement of supervision is not construed as a grant of authority; his directive power is as narrow as his power to remove executive officers.

### *The Governor's Ordinance Power*

The tendency of State legislatures to make statutes completely explicit, rather than lay down a general rule and leave the details to the executive, curtails any ordinance power that would otherwise fall to the

<sup>41</sup> The power of direction is almost entirely dependent on the power of removal. See Goodnow; *Comparative Administrative Law*, II, 70, 80 and Young; *The New American Government and its Work*, p. 318.

<sup>42</sup> See pp. 1128-9 *Index Digest State Constitutions* for provisions regarding reports of Public Officers.

<sup>43</sup> See also Goodnow; *Comparative Administrative Law*, II, 136.

<sup>44</sup> "The power to see that the laws are faithfully enforced is vague, and is not considered as giving the Governor any definite means of compelling other officials to act. The power to require special information seems to look toward special inquiries rather than any systematic supervision over subordinate officials. The more definite powers guaranteed in some of the States apply only to specific conditions named and serve mainly to emphasize the lack of more general authority and the absence of these specified powers in most of the States." Fairlie; *The State Governor*, p. 20.

executive.<sup>45</sup> The Governor's ordinance power is usually confined to such regulations as are expressly authorized by statute.<sup>46</sup> Executive officers look rather to their own statutes than to any "Governor's ordinances" for guidance.<sup>47</sup>

*Contrast between the Governor's Real and Supposed Powers*

Popularly, the Governor is regarded as the supreme executive power in the State; his position is held to be analogous to that of the President of the United States.<sup>48</sup> He is supposed to have the power to see that the laws of the State are enforced.<sup>49</sup> The facts reveal a wide divergence between his real and supposed position, and a true analysis of present State executive organization must mark this contrast. One State supreme executive, in a Governor's open forum, put the situation trenchantly: "Consulting authorities we find a Governor described as the person invested with the supreme executive authority in a State or community; and yet there is probably no Governor in the company here assembled who will combat the assertion that while this definition is true in theory it is found faulty in the practical workings of the executive office when the Governor assumes his duties. There is no room for doubt that in the minds of the people this definition is correct in theory and condition. Many of our Governors are taken from the ranks of the laity and they, too, therefore take this office with the idea that the Governor is one who governs. Only a short time in office, however, is required to disabuse their minds on this score. Once let the steady stream of correspondence begin, wherein they are appealed to bring about the enforcement

<sup>45</sup> Boards of Health and similar bodies are, of course, constantly making supplementary rules as to what the people of the State shall or shall not do. Even *their* ordinance power, however, is restricted by the theory and practice of statute drafting. But so far as the ordinance power is an auxiliary of executive control by the Governor the above description is accurate. See Goodnow; *Politics and Administration*, pp. 94, 95.

<sup>46</sup> Fairlie; *The State Governor*, p. 21.

<sup>47</sup> See Wilson; *State and Federal Governments of the United States*, pp. 75, 76.

The courts on the application of individuals whose rights have been violated, or of officers expressly given the power to apply to the courts, can force obedience to this detailed legislation.

<sup>48</sup> Any doubt on this point will be dispelled by questioning the "man in the street." One such experiment with some fifty business and professional men—other than lawyers—netted an unequivocal "yes" in almost every case.

<sup>49</sup> See ex-Governor Hughes' emphasis of the popular misapprehension as to the scope of the Governor's powers (Beard's *Readings*, 436). See also *Report of the Illinois Efficiency and Economy Committee*, p. 24.

of laws in various communities in various portions of their States, and they require not many days to conclude that their powers are not nearly so all inclusive as they supposed. They take their places at the helm, they perform the parts assigned, as members of the administrative boards and otherwise, but when they reach the point where it would seem salutary to compel an enforcement of certain laws they find themselves squarely facing an injunction that reads 'Do not trespass here.' ”<sup>50</sup>

### *The Governor as Legislator and Executive*

The executive as legislator is now a familiar figure.<sup>51</sup> In fact, the rise of the Governor's policy formulating function has led commentators to make him more of a political officer than an agent to execute the laws.<sup>52</sup> This may or may not be a correct appraisal, but it would seem not far wrong when the Governor's position in the department designed to enforce the State will is thus fixed by the courts: "The Governor is neither in fact nor in theory, personally nor politically, responsible for the conduct of the Secretary or any other officer. He cannot assign him the performance of a single duty, or control him in the performance of those assigned by law. He (the State Secretary) does not move in the executive circle, but that assigned by law. He looks to the law for his authorities and duties, and not to the Governor; to that and that alone, he is responsible for their performance."<sup>53</sup>

### *"State Officers"; Number, Selection, Terms, Removal, Eligibility for Successive Terms*

The common method of selecting that group of constitutional officers called "State officers" is popular election.<sup>54</sup> If another method of choice does obtain, it is usually appointment by the Governor and Senate, or Council, although in a few instances the legislature still elects some of the "State officers." Impeachment is the regular mode of removal. Provision that the Governor may remove "State officers" on the address of two-thirds of the legislature amounts practically to impeachment.<sup>55</sup> The recall is employed in a very limited number of States. In only

<sup>50</sup> Governor Norris of Montana; *Proceedings of Governors*, 1911, p. 14.

<sup>51</sup> See Beard's *Readings*, pp. 443, 444.

<sup>52</sup> Goodnow; *Comparative Administrative Law*, II, pp. 51, 81. Fairlie; *Political Science Quarterly*, 15:70.

<sup>53</sup> *Field v. The People*, 3 Illinois 79. Not a recent case, but a leading one. Excerpt from Chief Justice Wilson's decision, p. 119.

<sup>54</sup> Table p. 15 shows that in nine States only are one or more such officials chosen in any other manner.

<sup>55</sup> See also Young; *The New American Government and its Work*, p. 318.

four instances may the Governor remove any one of the "State officers" he appoints. In nine States the terms of one or more "State officers" are not the same as his,<sup>66</sup> and in many other cases where the terms are the same in length they are not synchronous,—the "State officers," or part of them, are selected at a different election than the governor.<sup>67</sup> Eighteen State constitutions provide ineligibility restrictions,—commonly for the Treasurer or Treasurer and Auditor. Obviously, the reason for limiting the terms of these financial officers was the desire to prevent misappropriation of State funds. And an examination of the debates in the various constitutional conventions reveals the motive in arranging a tenure of office for "State officers" different from that of the Governor, namely, to prevent collusion. The following table shows in detail the number of State officers, their selection, terms, how they are chosen and removed, and their eligibility for successive terms.<sup>68</sup>

<sup>66</sup> Usually the financial officers.

<sup>67</sup> For example, in Pennsylvania the Governor and Secretary of Internal Affairs were elected in 1914, the Auditor-General and State Treasurer in 1912.

<sup>68</sup> See footnotes, pp. 2 and 3; the Superintendent of Public Instruction and other constitutional officers are not included in the count in those cases where they are not listed under "the executive." Some allowance must be made for probable error; the chaotic manner of printing State constitutions would alone make impossible zero error.

# CONSTITUTIONAL PROVISIONS REGARDING STATE OFFICERS

STATE	DATE OF CONSTITUTION	No.	How Chosen	Term	How Removed	ELIGIBLE FOR SUCCESSIVE TERMS
1. Alabama.....	1901*	6	Elected	4 years	Impeachment	These officers ineligible to serve two terms in succession.
2. Arizona.....	1910	5	Elected	2 years	Recall (Am. 1911-Treasurer ineligible to serve two terms 12) or impeach- ment	in succession
3. Arkansas.....	1874	4	Elected	2 years	Recall (1912)§	Yes
4. California.....	1879	5	Elected	4 years	Recall (Am. 1911)§	Yes
5. Colorado.....	1876	5	Elected	2 years	Recall (Am. 1912)§	Treas. and Aud. ineligible to serve two terms in succession
6. Connecticut.....	1818 (Am. 1884)	3	Elected	2 years	Impeachment	Yes
7. Delaware.....	1897	5	Elected Sec'y of Governor and Senate	Attorney-Gen- eral, 4 years; In- surance Commr., 4 years; Treas- urer, 2 years; Auditor, 2 years.	By Governor on address of two- thirds of legisla- ture. Sec'y of State removable by Gov. at will	Yes
8. Florida.....	1885	6	Elected	4 years	Impeachment	Yes
9. Georgia.....	1877	4	Elected	2 years	Impeachment	Yes
10. Idaho.....	1889	5	Elected	2 years	Recall (Am. 1912)§	Yes
11. Illinois.....	1870	5	Elected	4-4 years; Treasurer, 2 years	Impeachment	Treasurer ineligible for two years
12. Indiana.....	1851	4†	Elected	2 years	Impeachment	These officers ineligible more than four years in any period of six.
13. Iowa.....	1857	3†	Elected	2 years	two-third joint resolution	Yes
14. Kansas.....	1859	5	Elected	2 years	Impeachment	Yes
15. Kentucky.....	1891	5	4 elected Sec'y appointed by Gov. and Sen.	4-4 years; Treasurer, 2 years	Recall (1914)§ Impeachment	Yes Yes
16. Louisiana.....	1913	4	Elected	4 years	Recall (1914)§	Treasurer ineligible to serve two terms in succession



17. Maine.....	1819 (Am. 1879) †2	Elected	2 years	Impeachment or removal by Gov. and Council on address of legislature	Treasurer not eligible more than six years
18. Maryland.....	1867	3†	Sec'y appointed by Gov. and Sen. Comp. elected. Treas. chosen by legislature	Secretary removal by Governor. Impeachment the method of removing other officers	Yes
19. Massachusetts	1780 (Am. 1855)	5	Elected	Impeachment	Treasurer not eligible more than five successive years
20. Michigan.....	1908	5	Elected	Recall (Am 1913) §	Yes
21. Minnesota.....	1857	4	Elected	Impeachment	Yes
22. Mississippi.....	1890	3†	Elected	Impeachment	Treasurer and Auditor ineligible to serve two successive terms
23. Missouri.....	1875	5	Elected	Impeachment	Treasurer ineligible to serve two successive terms
24. Montana.....	1889	5	Elected	Impeachment	Treasurer ineligible to serve two successive terms
25. Nebraska.....	1875	6	Elected	Impeachment	Treasurer ineligible for two years after two consecutive terms
26. Nevada.....	1864	5	Elected	Recall 1912 §	Yes
27. New Hampshire	1792 (Am. 1902)	3	Atty.-Genl. appointed by Gov. and Council. Sec'y and Treas. elected by legislature	Impeachment	Yes

## PRESENT ORGANIZATION

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28. New Jersey.....	1844 (Am. in 1875 and 1897)	4	Treas. and Comp. elected by legislature Atty.-Genl. and Sec'y appointed by Gov. and Sen.	Treas., 3 years; Comp., 3 yrs.; Sec'y, 5 years; Atty.-Genl., 5 years	Impeachment	Yes
29. New Mexico.....	1911	6	Elected	4 years	Impeachment	Sec'y, Aud., Treas., Atty.-Genl. ineligible to serve two successive terms
30. New York.....	1846 (Am. 1894)	5	Elected	2 years	Impeachment Atty.-Genl. by Gov. after due notice and hearing	Yes
31. North Carolina..	1876	5	Elected	4 years	Impeachment	Treasurer ineligible for more than two consecutive terms
32. North Dakota....	1889	7 and 3 comms. of rail'rds	Elected	2 years	Impeachment	
33. Ohio.....	1851 (Am. 1885)	4	Elected	Treas., Atty.-Genl., Sec'y of State, 2 years; Auditor, 4 yrs.	Impeachment	Yes
34. Oklahoma.....	1907	10	Elected	4 years	Impeachment	Sec'y, Aud., Treas. ineligible to serve two successive terms
35. Oregon.....	1857	2	Elected	4 years	Recall 1908 §	Yes
36. Pennsylvania.....	1873 (Am. 1909)	6	3 elected Sec'y, Atty.-Genl., Supt. of Pub. Ins. appointed by Gov. and two-thirds of Senate	Sec'y and Atty.-Genl. during Governor's pleasure; Supt. Pub. Insurance, and Atty.-Genl. Auditor, Sec'y removable by Internal Affairs, Governor, Treasurer, 4 years	Impeachment by Governor by address of two-thirds of Senate. Sec'y of Senate. Sec'y of Pub. Insurance, and Atty.-Genl. removable by Governor	Auditor and Treasurer ineligible to serve two successive terms
37. Rhode Island	1842 (Am. 1911)	3	Elected	2 years	Impeachment	Yes

38. South Carolina.....1895	5	Elected	2 years	Impeachment	Yes	Treasurer ineligible for more than two consecutive terms
39. South Dakota.....1889	6	Elected	2 years	Impeachment	Yes	
40. Tennessee.....1870	3†	Sec'y, Treas., Comp. elected by legislature. 4 elected	Sec'y; 4 years; Treas., 2 years; Comp., 2 years 2 years	Impeachment	Yes	
41. Texas.....1876	5	Sec'y appointed by Governor and Senate		Impeachment	Yes	
42. Utah.....1895	5	Elected	4 years	Impeachment	Yes	
43. Vermont.....1793 (Am. 1870; 4 1905)	4	Elected	2 years	Impeachment	Yes	
44. Virginia.....1902	3†	Sec'y and Treas. elected Auditor elected by legislature	4 years	Impeachment	Yes	
45. Washington.....1889	6	Elected	4 years	Recall (Am. 1912) §	Yes	
46. W. Virginia.....1872 (Am. 1902) §	5	Elected	4 years	Impeachment	Yes	
47. Wisconsin.....1848	3	Elected	2 years	Impeachment	Yes	
48. Wyoming.....1889	4	Elected	4 years	Impeachment	Treasurer ineligible to serve two successive terms	

\* For the most part these dates indicate the work of the constitutional convention; in some few cases the constitution did not go into effect until the next year or later.

† Amendments cited refer only to data tabulated; no attempt is here made to list all of the different amendments to State constitutions.

‡ Attorney-General not included in "the executive," so not listed here. In these cases the office is placed under the judicial department.

§ The recall does not exclude other methods of removal. See *Index Digest of State Constitution*, p. 1240. See, for further information on the recall, the *Cyclopedia of American Government*, Vol. III, pp. 157-158, and *The American Yearbook*, 1915, pp. 82 and 85.

### *Powers and Duties of "State Officers"*

The powers and duties of "State officers" are set forth either in the constitution of a State, in subsequent legislation based thereon, or in both constitution and statutes. The names Secretary of State, Treasurer, Attorney-General, Auditor, Superintendent of Public Instruction, sufficiently indicate the general functions of these several officials. While minor variations may be found in the powers and duties of the "State officers" in different commonwealths, a large degree of uniformity obtains. For their particular powers, duties, and restrictions, "State officers" look to the constitutional and statutory law of their States.

### *Creation of State Boards and Commissions*

During the last decades of the nineteenth century the favorite method by which State legislatures provided for the increasing work of State government was through the creation of State boards and commissions.<sup>59</sup> Growing executive work netted, chiefly, numerous commissions for particular needs, and Woodrow Wilson was not far wrong when he characterized the State executive as "in commission."

### *Number of Boards and Commissions*

So rapid was the creation of State commissions<sup>60</sup> that almost every commonwealth now has, by actual tabulation, from twenty-five to one hundred.<sup>61</sup> Nor was the commission movement restricted territorially; a review of boards in Wyoming, Indiana and New York is proof of that. The numerical limits of commission development are set chiefly by the extent of State functions; in the older, more populous, and more highly developed industrial States the range of boards is likely to be correspondingly greater than in the young, thinly settled, or agricultural commonwealths.<sup>62</sup>

<sup>59</sup> See the *Report of Illinois Efficiency and Economy Committee*, p. 8.

<sup>60</sup> The terms "board" and "commission" are practically synonymous. Any attempt to make a "board" denote a permanent body, and "commission" signify a temporary one is not true to actual practice. Nor have the terms any really distinct connotations; both, for example, may exercise quasi-legislative and quasi-judicial as well as executive powers.

<sup>61</sup> For an idea of the extent of board development see: The *Rhode Island Legislative Reference Bulletin*, number four; the *Report of the Minnesota Efficiency and Economy Commission*,—chart following p. vii; *Report of the Pennsylvania Economy and Efficiency Commission*; *Recommendations of the Committee on Retrenchment and Reform* in Iowa, pp. 10-12; *Report of the Department of Efficiency and Economy*, in New York on "The Organization and Functions of State Government."

<sup>62</sup> See article by F. H. White; *Political Science Quarterly*, 18: 635.

### *Functions of State Boards*

The functions of permanent boards and commissions extend from the supervision of monuments, parks, and old soldiers' homes to the care of public health, charities, education, and the regulation of public utilities. A catalogue of individual board functions would be almost co-extensive with the list of such bodies. Classification of the functions of State boards results in grouping them under some seven to ten general departments.<sup>63</sup> Board functions might even be reduced to conform to three very broad divisions such as the "Department of Social Progress," "Department of Industries," and "Department of Public Safety."<sup>64</sup> This grouping of boards is a matter of the principle of classification that is used. One fact, however, is clear, that all State boards cannot be classified as wholly executive; frequently their functions are quasi-legislative, or quasi-judicial. Or all three powers are found vested in a single body, designed to conduct investigations, make ordinances, enforce those ordinances and the general statutes upon which they are based. And in some cases State boards have no executive functions, but have only power to investigate and report their findings.<sup>65</sup>

Corresponding roughly to the work to be done, State boards and commissions are permanent or temporary, large or small, centralized or scattered, but in some instances function has not controlled form.

### *Selection of State Boards*

Appointment is the usual method of selecting the members of boards and commissions. In a majority of cases the Governor exercises this power of appointment for some or all of the members,<sup>66</sup>—usually subject to confirmation by the senate. Occasionally, however, the appointing power is the State legislature itself,<sup>67</sup> or even some group of citizens whose

<sup>63</sup> See, for such a classification, p. 62 of the publication *Reorganization of State Government in Iowa*, by F. E. Horack, or pp. 29-30 of the *Report of the Efficiency and Economy Committee* in Illinois.

<sup>64</sup> *Recommendations of the Committee on Retrenchment and Reform* in Iowa, p. 9.

<sup>65</sup> See classification by L. A. Blue; *Annals American Academy of Political and Social Science*, 18: 435.

F. H. White (*Political Science Quarterly*, 18:635) groups boards as industrial, scientific, supervisory, examining, educational, corrective, and philanthropic.

<sup>66</sup> The Governor himself, in most States, serves as active or ex-officio member of from one to a score or more boards. See Young; *The New American Government*, p. 320.

<sup>67</sup> Ex-officio members, for example, are sometimes so selected.

professional or special interests are involved. In short, while board members are not commonly elected, the methods of appointment are not entirely uniform.<sup>68</sup>

#### *Tenure of Board Members*

No general statement regarding the terms for which members of permanent boards and commissions hold office is possible. When the Governor appoints them, their term may or may not be synchronous with his,—frequently not. The statutes creating particular boards regularly fix the tenure of the members and alone furnish the data concerning periods of service.

#### *Removal of Board Members*

Removal of board members is a rarity; they ordinarily serve their legally allotted term of office. The Governor is usually hedged about by the legal requirement: "for cause, after due notice and full hearing." Or he does not find it politically expedient to oust board members.<sup>69</sup> Legislatures and electorates do not remove these officials. In short, they are not removed.

#### *Responsibility of Boards*

Within the law, State boards go very much their own way. Once selected, they are largely independent of the Governor or other appointing power, and even of the electorate. They make formal reports, but are not bound to any strict accountability based on the penalty of removal.<sup>70</sup>

#### *Local Officers as Part of the State Executive*

Sheriffs, district attorneys, school and health officials, coroners and other local officers whose duties have to do in part with the enforcing

<sup>68</sup> See the sixteen different methods of appointing heads of departments, bureaus, and officers, and members of commissions in New York; *Appraisal of the Constitution and Government of New York*, pp. 36, 37. Pennsylvania, too, has its full assortment of methods by which board members are selected: appointment by the Governor and Senate, appointment by the Governor, selection by professional societies, and so on down to election of members by locally interested communities.

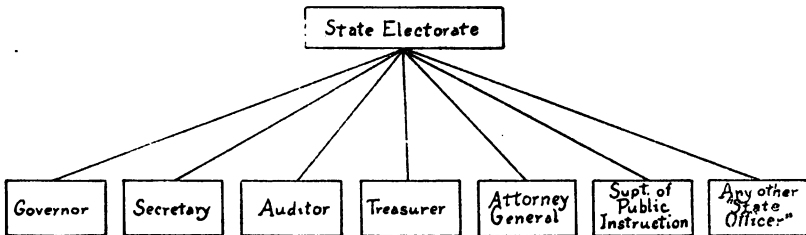
<sup>69</sup> See pp. 8-11 for the Governor's power to remove officers. See also, F. H. White, *Political Science Quarterly*, 18:645.

<sup>70</sup> The board and commission system, as well as the administrative arm of State government, has been termed the "fourth department" of government. *Political Science Quarterly*, 18:646.

of certain State laws form a last regular division of the State executive.<sup>71</sup> These officers are for the most part selected by the local electorates for a widely varying range of terms<sup>72</sup> and excepting a few States, such as New York and Illinois, which have empowered the Governor to remove county sheriffs or other local officers, no provision is made for any control by the central executive authorities. Such responsibility as these officers feel is local; they are responsive to the will of their communities. By enforcing or failing to enforce particular State laws in their districts they express public opinion therein respecting these statutes. They are the agents of the local mind rather than of the collective will of the State.<sup>73</sup>

*Relation of the Governor to State Officers*

The independence of "State officers" is shown in the following chart.



The even alignment of Governor and "State officers" shows that they are coördinate officials. Although the Governor receives formal reports or written information from these department heads, they are in no sense to be considered his "cabinet."<sup>74</sup> No line of connection, unless a broken one be imagined to represent formal reports, shows between the Governor and "State officers"; nor is there any connection between these latter officials themselves.<sup>75</sup> A graph of the facts shows the Governor and State officers separate and distinct units.

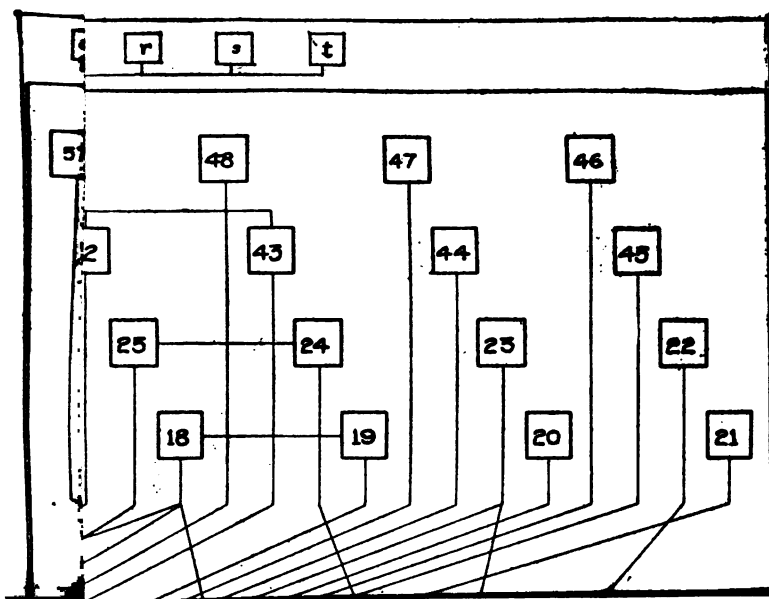
*Position of the Governor with Reference to Boards and Commissions*

Both the complexity of State board organization and the position of the Governor relative to these boards are shown in a fairly typical way by the following chart taken from the report of the Illinois Efficiency and Economy Committee.

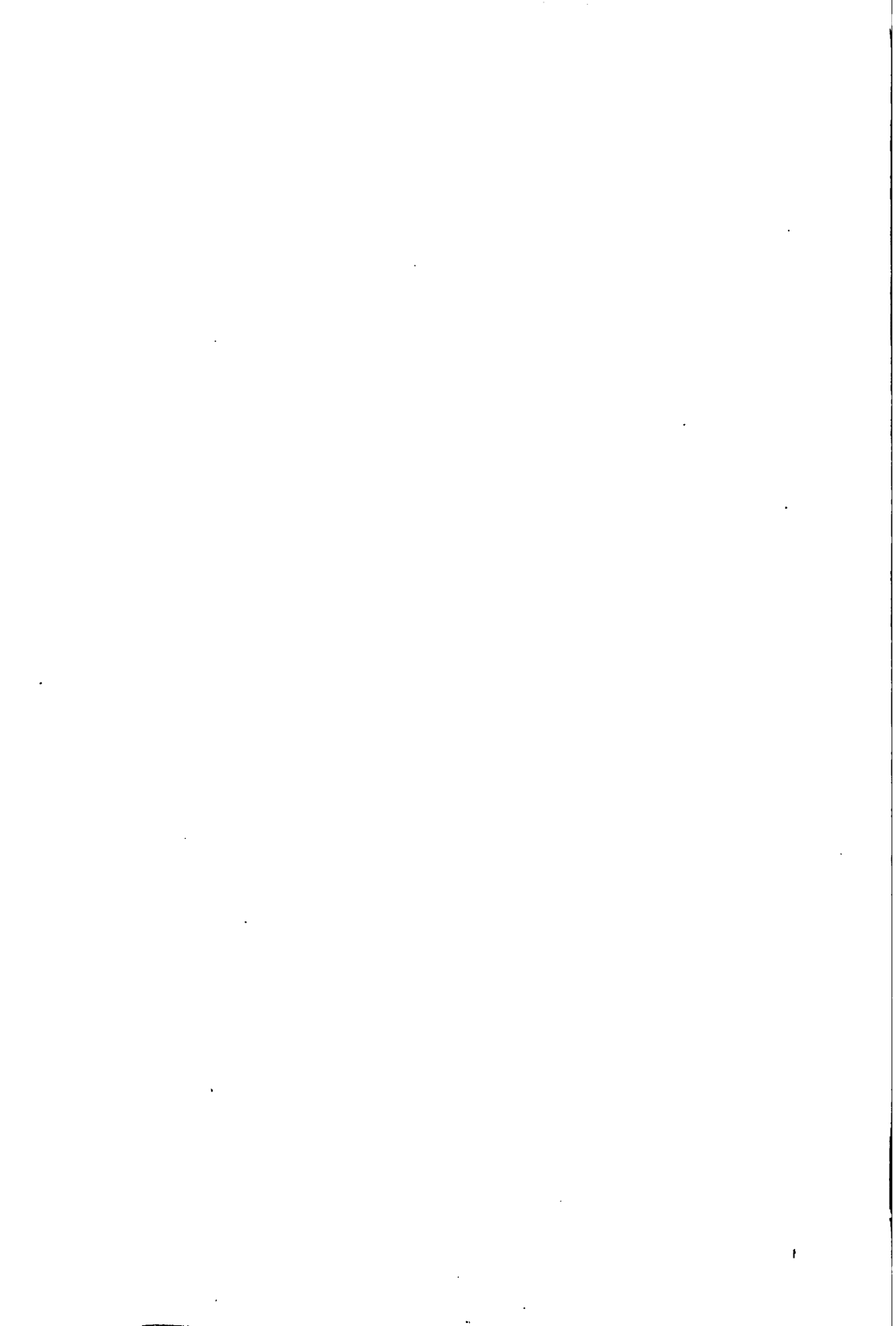
<sup>71</sup> Appropriation and temporary offices (see p. 2) are irregular, and once mentioned, may be dropped from the executive complex.

<sup>72</sup> In Pennsylvania, for example, local officers are elected locally for three years, while the Governor and "State officers" are chosen for a four year period. In this State the ineligibility restrictions as to successive terms extend even to County Auditors and Treasurers.

<sup>73</sup> Compare Wilson: *State and Federal Governments of the United States*, p. 71.



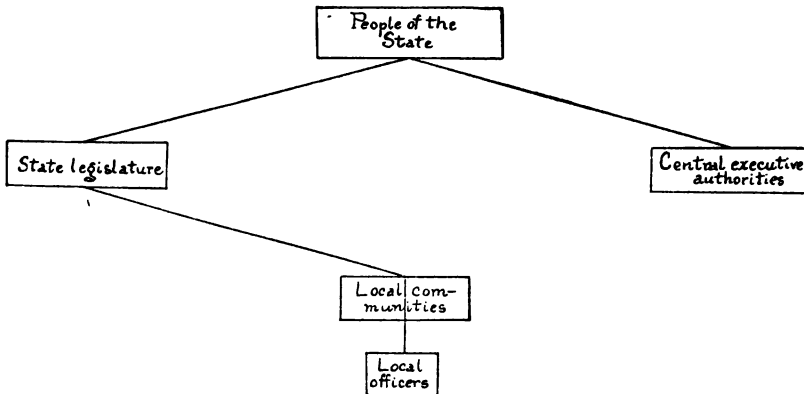




The lines joining the Governor with the various boards must be understood to represent his power of appointment, not of removal and control.<sup>74</sup> These lines focussing on the Governor represent also the formal reports to him that are usually required of the various boards.

*The Governor's Separation from Local Officers*

The relation of the Governor, in fact of all the central executive authorities, to the local officers who form part of the State executive is indicated by the following diagram.



The line running from the state legislature through local communities to local officers represents the will of the State expressed in statutory form. There is no line of connection between local officers and the central executive authorities unless it be one showing the power of the central authorities to call upon local officers for information, which some of the States (Pennsylvania, for example) confer by statute.

*The Governor's Relation to the Executive Department as Shown by the New York Organization*

Probably no better way offers of showing the Governor's relation to all of the executive units in a large State than by using the following

<sup>74</sup> Bryce; *American Commonwealth*, I, 476.

<sup>75</sup> The chart of executive organization in Illinois shows a connection between the Treasurer and Auditor; it is true that a certain connection here obtains, but it is a "check" relationship, and the work of the two officials is by that fact separate and distinct.

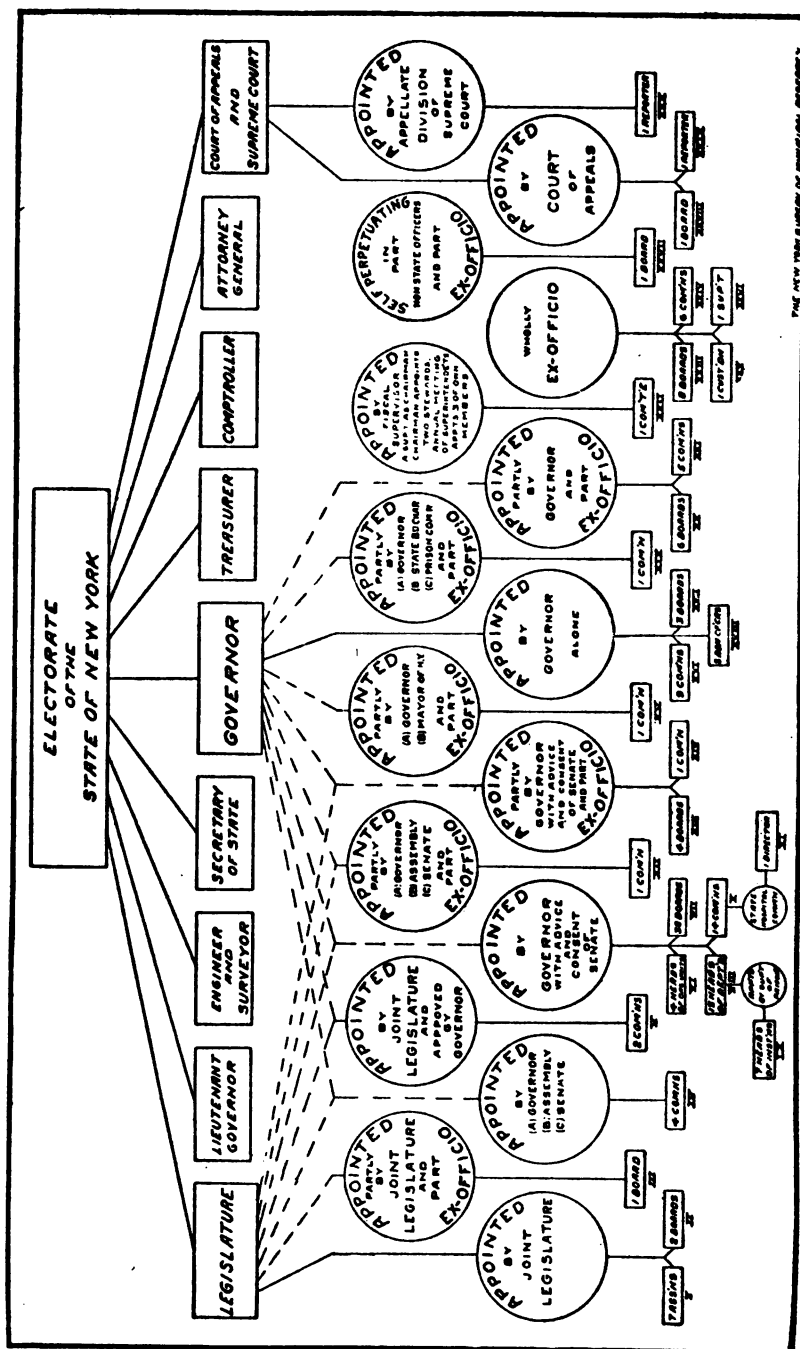
<sup>76</sup> In Illinois the Governor is less hedged about by legal restrictions on his power of removal than the Governors of most States, so the chart is not misleading for Illinois; it would, however, give a wrong impression of the general or typical situation. See sections above dealing with the Governor's power of removal and control.

charts from the "Appraisal of the Constitution and Government of the State of New York."<sup>77</sup>

<sup>77</sup> For a comparison see the chart of the 114 Executive departments in Massachusetts,—insert following p. 8 of the *Report of the Commission on Economy and Efficiency*, entitled "Functions, Organization, and Administration of the Departments in the Executive Branch of the State Government." This report—an excellent descriptive work of some 500 pages—indicates the complexity of executive organization in another important State.



## CHART I



Key to Chart I—Showing the Different Methods of Appointment Prescribed by Law, Roman numerals being used for purposes of reference to chart on opposite page.

#### Apptd. Joint Legislature

##### I

- 1—Am. Scenic and Hist. Preserv. Soc.
  - 2—New York State Historic. Asso.
  - 3—German-American Alliance
  - 4—Comm. Daughters Am. Rev. N. Y. State
  - 5—Mahwewasigh Chapter D. A. R.
  - 6—Mt. McGregor Memorial Asso.
  - 7—Johnstown Hist. Soc.
- (Seven organizations are designated by joint legislature as custodians of historic sites. The personnel of the organizations is self-perpetuating)

##### II

- 1—Bd. Statutory Consolidation
  - 2—Bd. Regents (Ed. Dept.)
- Apptd. Part Joint Legis. P't Ex-Off.

##### III

- 1—Bd. Trust. Inst. Study Malignant Diseases
- Apptd. Gov., Assembly Senate.

##### IV

- 1—Commn. Investigate Housing, Cities 2nd. Cl.
- 2—N. Y. State Factory Investigating Commn.
- 3—Panama-Pacific Exp. Commn.
- 4—Treaty Ghent Commn.

Apptd. Joint Legis. Aprvd. by Gov.

##### V

- 1—Curtis Monument Commn.
  - 2—Irish Brigades Monument Commn.
- Apptd. Gov. W. Adv. & Cons. Sen.

##### VI

- 1—State Supt. Elections
- 2—State Supt. Weights and Measures
- 3—Fiscal Supervisor State Charities
- 4—Militia (Maj. Gen.)

##### VII

- 1—Bd. Claims
- 2—Bd. Tax Commissioners
- 3—State Bd. Port Wardens
- 4—Bd. Trust State Agr. Exp. Sta. (Geneva)
- 5—State Bd. Public Charities
- 6—(Bd. Mgrs. Reformatory (Elmira)  
(Bd. Mgrs. East N. Y. Reformatory [Mapan-och])
- 7—Bd. Mgrs. Agr. and Indust. School (Industry)
- 8—Bd. Mgrs. West Home Refuge Women (Albion)
- 9—Bd. Mgrs. Reformatory, Women (Bedford)
- 10—Bd. Mgrs. Training School Girls (Hudson)
- 11—Bd. Mgrs. Industrial Farm Colony (Green Haven)
- 12—Bd. Mgrs. Training School Boys (Yorktown H'ghts)
- 13—Bd. Mgrs. Reformatory, Misdemeanants
- 14—Bd. Mgrs. Rome Custodial Asylum
- 15—Bd. Mgrs. Cust. Asy. Feeble-minded Women (Newark)
- 16—Bd. Mgrs. Letchworth Village (Thiells)
- 17—Bd. Mgrs. Inst. Feeble-minded Children
- 18—Bd. Mgrs. Carig Colony Epileptics (Sonyea)
- 19—Bd. Mgrs. Hosp. Care Crippled Children
- 20—Bd. Mgrs. School for Blind (Batavia)
- 21—Bd. Mgrs. Hosp. Tr'm't Incip. Tuberc. (Ray Brook)
- 22—Bd. Mgrs. Women's Relief Corps Home (Oxford)

- 23—Bd. Mgrs. Thomas Indian School (Iroquois)
- 24—Bd. Mgrs. Utica State Hospital
- 25—Bd. Mgrs. Willard State Hospital
- 26—Bd. Mgrs. Hudson River Hospital
- 27—Bd. Mgrs. Middletown State Homeopathic Hospital
- 28—Bd. Mgrs. Buffalo State Hospital
- 29—Bd. Mgrs. Binghamton State Hospital
- 30—Bd. Mgrs. St. Lawrence State Hospital
- 31—Bd. Mgrs. Rochester State Hospital
- 32—Bd. Mgrs. Gowanus State Homeopathic Hosp.
- 33—Bd. Mgrs. Mohansic State Hospital
- 34—Bd. Mgrs. Long Island State Hospital
- 35—Bd. Mgrs. Kings Park State Hospital
- 36—Bd. Mgrs. Manhattan State Hospital
- 37—Bd. Mgrs. Central Islip State Hospital
- 38—Bd. Trust Washington Headquarters. (Newburgh)

##### VIII

- 1—Dept. Efficiency and Economy
- 2—Banking Dept.
- 3—Insurance Dept.
- 4—Dept. Excise
- 5—State Dept. Health
- 6—Health Officer Port N. Y.
- 7—Dept. Labor
- 8—Dept. State Fire Marshal
- 9—Dept. Agriculture
- 10—Prison Dept.
- 11—Dept. Arch.
- 12—Dept. Public Works
- 13—Dept. Highways

##### IX

- 1—Sing Sing Prison
- 2—Auburn Prison
- 3—Clinton Prison
- 4—Great Meadow Prison
- 5—State Farm. Women (Valatie)
- 6—Dannemora State Hosp. Insane Convicts
- 7—Matteawan State Hosp. Insane Criminals

##### X

- 1—Saratoga Springs State Res. Commn.
- 2—Fire Island State Park Commn.
- 3—Watkins Glen Reservation Commn.
- 4—Palisades Interstate Park Commn.
- 5—Commn. Prom. Uniformity Legis. U. S.
- 6—State Civil Service Commn.
- 7—Pub. Serv. Commn. (1st Dist.)
- 8—Pub. Serv. Commn. (2nd Dist.)
- 9—State Commn. Prisons
- 10—Bronx Parkway Commn.
- 11—Conservation Dept. (Commn.)
- 12—Commn. State Reserv. (Niagara)
- 13—Newtown Battlefield Commn.
- 14—State Hospital Commn.

##### XI

- 1—Dir. Psychiatric Inst.
- Apptd. P't Gov. Assemb. Sen. P't Ex-Off.

##### XII

- 1—Perry Victory Centennial Commn.
- Apptd. P't Gov. Adv. Cons. Sen. P't Ex-Off.

##### XIII

- 1—Bd. Trust State School Ag. (Morrisville)
- 2—Bd. Cont. State School Ag. Dom. Sc. (Delhi)
- 3—Bd. Parole State Prisons
- 4—Bd. Trust. Soldiers, Sailors Home (Bath)

## XIV

- 1—Workmen's Compensation Commn.  
Apptd. P't Gov. Mayor N. Y., P't Ex-Off.

## XV

- 1—N. Y. Bridge and Tunnel Commn.  
Apptd. Gov. Alone

## XVI

- 1—Commissioner to Index Session Laws
- 2—Commn. Fed. Legis. Alien Insane
- 3—Commn. Invest. Port Cond., N. Y. Harbor
- 4—Voting Machine Commn.
- 5—State Racing Commn.
- 6—N. Y. State Athletic Commn.
- 7—Commn. for Blind
- 8—Commn. Invest. Prov. Mentally Def.
- 9—Ketchum Memorial Commn.

## XVII

- 1—Bd. Embalming Examiners
- 2—Bd. Exam. Feeble-minded, Crim., Other Def.
- 3—Bd. Trust. Schuyler Mansion

## XVIII

- 1—Miscellaneous Reporter
- 2—Harbor Masters
- 3—Spcl. Exam. and Apprais. Canal Lands  
Apptd. P't Gov. State Bd. Char. Pris. Commn.  
P't Ex-Off.

## XIX

- 1—State. Probation Commn.  
Apptd. P't Gov. P't Ex-Off.

## XX

- 1—Bd. Trust. State School Agr. (L. I.)
- 2—Bd. Trust. College Forestry (Syracuse)
- 3—Advis. Bd. Prom. Agriculture
- 4—Bd. Trust. Scholaris State Sch. Agr.
- 5—Bd. Gov. State Nautical School
- 6—State Bd. Geographic Names

## XXI

- 1—Const. Conv. Commn.
- 2—Commn. Revise. Codify Tax Laws
- 3—N. Y. State Fair Commn.
- 4—N. Y. Mon. Commn. Gettysburg, Chatt.,  
Antislavery

- 5—25th N. Y. Vol. Cav. Mon. Commn.  
Apptd. Fisc. Supvr. Supt. as Ch'rm'n  
Ch'rm'n. Appts. 2 St'w'ds; Annual M't'g.  
Supts. Appts. 3 Own No.

## XXII

- 1—Joint Pur. Comm. Char. Inst.  
Wholly Ex-Officio

## XXIII

- 1—Bd. Estimate
- 2—State Printing Bd.
- 3—State Bd. Convassers
- 4—State Bd. Equalization
- 5—State Bd. Classification
- 6—Bd. Retirement State Hosp. Emp.
- 7—Canal Bd.
- 8—Trust. Pub. Bldgs. (Bd.)

## XXIV

- 1—Salary Class. Commn.
- 2—Bldg. Improvement Commn.
- 3—Commn. Sites, Grounds, Bldgs.
- 4—Commissioners Canal Fund
- 5—Commissioners Land Office
- 6—Battleship "New York" Silver Serv. Comm'n

## XXV

- 1—Cust. Saratoga Monument

## XXVI

- 1—Dept. Pub. Bldgs. (Supt.)  
Self-Perpetuating in P't (Non-State Off.)  
P't Ex-Off.

## XXVII

- 1—Bd. Mgrs. Soc. Ref. Juv. Del. N. Y. (Randall's Is.)  
Appointed by Court of Appeals

## XXVIII

- 1—State Bd. Law Examiners

## XXIX

- 1—State Reporter  
Apptd. Appellate Div. Supreme Court

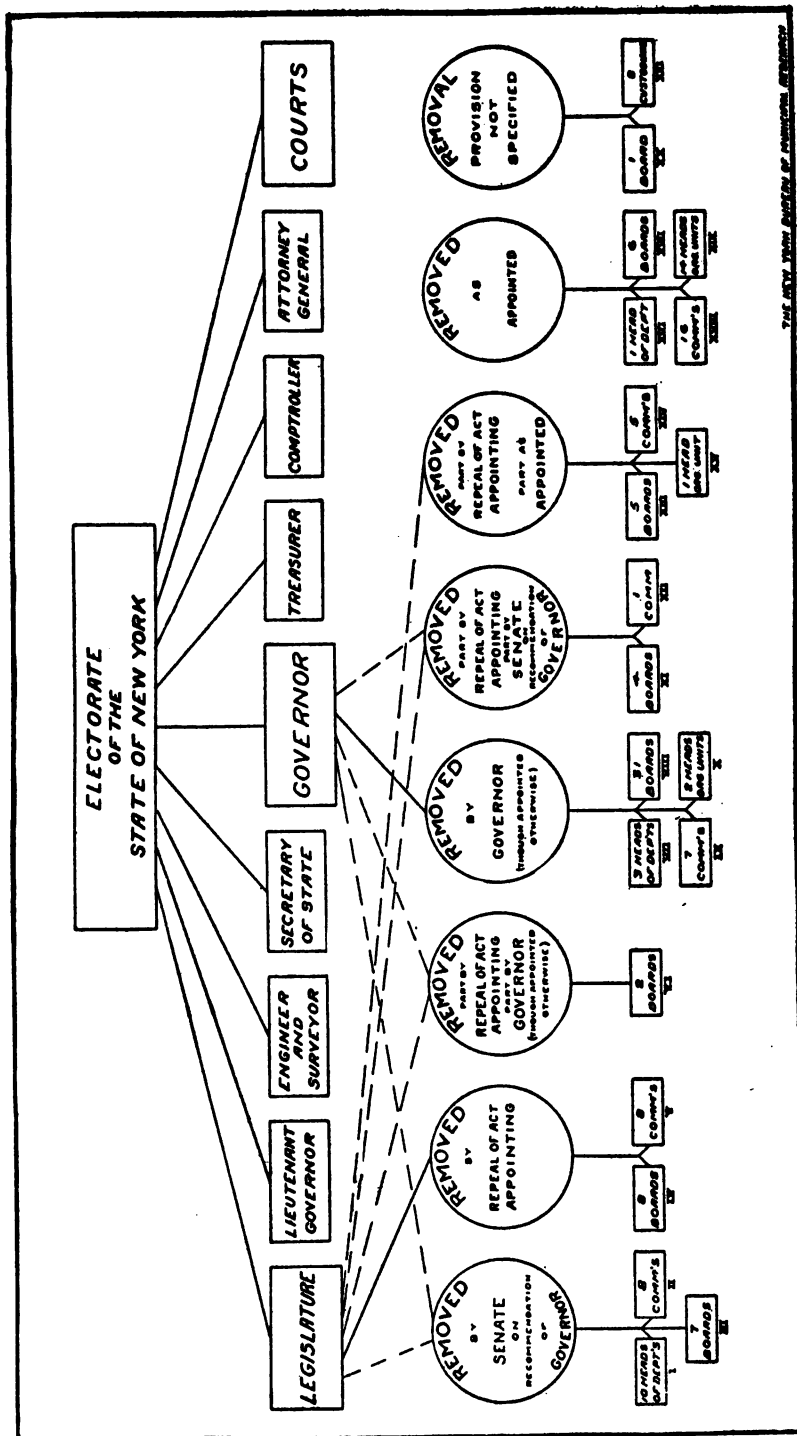
## XXX

- 1—Supreme Court Reporter





CHART II



Key to Chart II—Showing the different methods of removal prescribed by law, Roman numerals being used for reference to chart on opposite page.

Removed Sen. Recommend. Gov.

I

- 1—Dept. Efficiency and Economy
- 2—Banking Dept.
- 3—Insurance Dept.
- 4—Dept. Excise.
- 5—State Dept. Health
- 6—Health Officer Port N. Y.
- 7—Dept. Labor
- 8—Dept. State Fire Marshal
- 9—Dept. Agriculture
- 10—Dept. Architecture

II

- 1—Saratoga Springs State Reserv. Commn.
- 2—Watkins Glen Reservation Commn.
- 3—Palisades Inter-State Park Commn.
- 4—Commn. Prom. Uniformity Legis. U. S.
- 5—State Civil Service Commn.
- 6—Commn. State Reservation (Niagara)
- 7—Newtown Battlefield Commn.
- 8—State Hospital Commn.

III

- 1—Bd. Claims
- 2—Bd. Tax Commissioners
- 3—(Bd. Mgrs. Reformatory [Elmira])
- 4—(Bd. Mgrs. East N. Y. Reform. [Napanoch])
- 5—Bd. Mgrs. Agr. and Indust. Sch. (Industry)
- 6—Bd. Mgrs. School for Blind (Batavia)
- 7—Bd. Trust Washington's Headquarters (Newburgh)
- 8—Bd. Trust College of Forestry (Syracuse)

Removed by Repeal of Act Apptd.

IV

- 1—Bd. Estimate
- 2—State Printing Bd.
- 3—State Bd. Canvassers
- 4—State Bd. Equalization
- 5—State Bd. Classification
- 6—Bd. Retirement State Hospital Employees
- 7—Canal Bd.
- 8—Trustees Public Buildings (Bd.)

V

- 1—Curtis Monument Commn.
- 2—Irish Brigades Monument Commn.
- 3—Salary Classification Commn.
- 4—Building Improvement Commn.
- 5—Commn. Sites, Grounds, Bldg.
- 6—Commissioners Canal Fund
- 7—Commissioners Land Office
- 8—Battleship "New York" Silver Serv. Commn.

Rmvd. P't Repeal Apptd. P't Gov. (Tho Apptd. Otherwise)

VI

- 1—Bd. Gov. State Nautical School
- 2—Bd. Bd. Mgrs. Soc. Ref. Juv. Del. N. Y. C. (Randall's Is.)

Removed Gov. (Though Apptd. Otherwise)

VII

- 1—Prison Dept.
- 2—Dept. Public Works
- 3—Dept. Highways

VIII

- 1—State Bd. Port Wardens
- 2—State Bd. Pub. Charities
- 3—Bd. Mgrs. West Home Refuge Women (Albion)
- 4—Bd. Reformatory Women (Bedford)

- 5—Bd. Mgrs. Train. School Girls (Hudson)
- 6—Bd. Mgrs. Indust. Farm Colony (Green Haven)
- 7—Bd. Mgrs. Train. School Boys (Yorktown Heights)
- 8—Bd. Mgrs. Reform. Misdemeanants
- 9—Bd. Mgrs. Rome Custodial Asylum
- 10—Bd. Mgrs. Cust. Asy. Feeble-minded Women (Newark)
- 11—Bd. Mgrs. Letchworth Village (Thiells)
- 12—Bd. Mgrs. Syr. Inst. Feeble-minded Children
- 13—Bd. Mgrs. Craig Colony Epileptics (Soyea)
- 14—Bd. Mgrs. Hosp. Care Crippled Children
- 15—Bd. Mgrs. Hosp. Treatment Incip. Tuberc.
- 16—Bd. Mgrs. Women's Relief Corps Home (Oxford)

- 17—Bd. Mgrs. Thomas Indian School. (Iroquois)
- 18—Bd. Mgrs. Utica State Hosp.
- 19—Bd. Mgrs. Willard State Hosp.
- 20—Bd. Mgrs. Hudson River State Hosp.
- 21—Bd. Mgrs. Middletown State Homeo. Hosp.
- 22—Bd. Mgrs. Buffalo State Hosp.
- 23—Bd. Mgrs. Binghamton State Hosp.
- 24—Bd. Mgrs. St. Lawrence State Hosp.
- 25—Bd. Mgrs. Rochester State Hosp.
- 26—Bd. Mgrs. Gowanda State Homeo. Hosp.
- 27—Bd. Mgrs. Mohansic State Hosp.
- 28—Bd. Mgrs. Long Island State Hosp.
- 29—Bd. Mgrs. Kings Park State Hosp.
- 30—Bd. Mgrs. Manhattan State Hosp.
- 31—Bd. Mgrs. Central Islip State Hosp.

IX

- 1—Commn. Investigate Housing Cities 2nd Cl.
- 2—Fire Island State Park Commn.
- 3—Public Service Commn. (1st Dist.)
- 4—Public Service Commn. (2nd Dist.)
- 5—State Commn. Prisons
- 6—Conversation Dept. (Commn.)
- 7—Joint Pur. Commn. Char. Inst.

X

- 1—State Supt. Elections
  - 2—Fiscal Supervisor State Charities
- Rmvd. P't Act Apptg. P't Sen. Rec. Gov.

XI

- 1—Bd. Trust. State Sch. Agr. (Morrisville)
- 2—Bd. Control State Sch. Agr. Dom. Sc. (Delhi)
- 3—Bd. Parole State Prisons
- 4—Bd. Trust. Soldiers and Sailors Home (Bath)

XII

- 1—N. Y. State Fair Commn.
- Rmvd. P't Repeal Act Apptg. P't as Apptd.

XIII

- 1—Bd. Trust Inst. Study Malignant Diseases
- 2—Bd. Trust State Agr. Exp. Sta. (Geneva)
- 3—Advis Bd. Promotion Agr.
- 4—Bd. Trust. Scholarie State Sch. Agr.
- 5—State Bd. Geographic Names

XIV

- 1—N. Y. State Factory Investigating Commn.
- 2—Perry Victory Centennial Commn.
- 3—N. Y. Monum't Commn. Gettys'g Chatt. Antietam
- 4—N. Y. Bridge and Tunnel Commn.
- 5—State Probation Commn.

XV

- 1—Militia (Maj. Gen.)

Removed as appointed.

#### XVI

- 1—Dept. Pub. Bldgs. (Supt.)

#### XVII

- 1—Bd. Statutory Consolidation
- 2—Bd. Embalming Examiners
- 3—Bd. Exam. Feeble-minded, Criminal, other Def.
- 4—Bd. Trust. Schuyler Mansion
- 5—Bd. Trust. State Sch. Agr. (Long Island)
- 6—State Law Examiners

#### XVIII

- 1—Bronx Parkway Commn.
- 2—Workmen's Compensation Commn.
- 3—Commner. Index Session Laws
- 4—Commn. Fed. Legis. Alien Insane
- 5—Commn. Invest. Port Cond. N. Y. Harbor
- 6—Voting Machine Commn.
- 7—State Racing Commn.
- 8—N. Y. State Athletic Commn.
- 9—Commn. for Blind
- 10—Commn. Investigate Prov. Ment. Def.
- 11—Ketchum Memorial Commn.
- 12—Const. Conv. Commn.
- 13—Commn. Revise and Codify Tax Laws
- 14—25th N. Y. Vol. Cav. Mon. Commn.
- 15—Panama-Pacific Exp. Commn.
- 16—Treaty Ghent Commn.

#### XIX

- 1—Sing Sing Prison
- 2—Auburn Prison
- 3—Clinton Prison
- 4—Great Meadow Prison
- 5—State Farm. Women (Valatie)
- 6—Dannemora State Hosp. Insane Convicts
- 7—Matteawan State Hosp. Insane Criminals
- 8—Dir. Psychiatric Inst.
- 9—State Supt. Weights and Measures
- 10—Miscellaneous Reporter
- 11—Harbor Masters
- 12—Spel. Examiners, Appraiser Canal Lands.
- 13—State Reporter
- 14—Supreme Court Reporter

Removal Provision Not Specified

#### XX

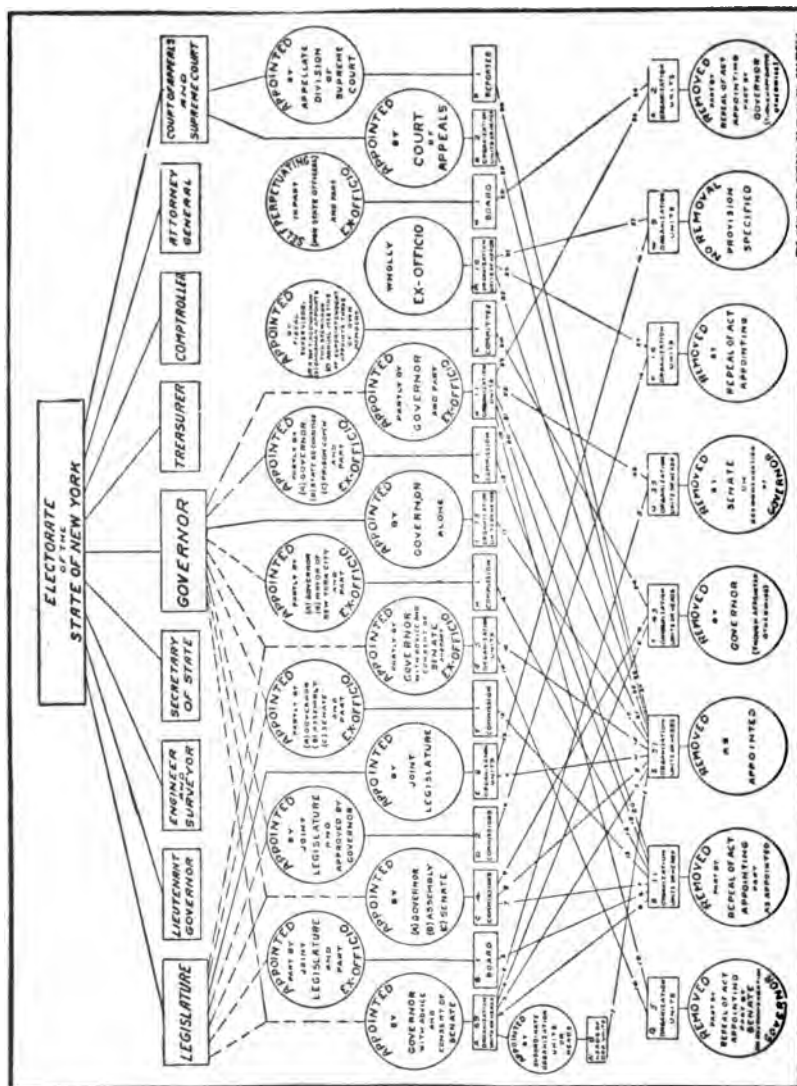
- 1—Bd. Regents (Ed. Dept.)

#### XXI

- 1—Am. Scenic and Hist. Preserv. Soc.
- 2—N. Y. State Hist. Asso.
- 3—German-American Alliance
- 4—Commn. D. A. R., N. Y. State
- 5—Mahenawasigh Chapter D. A. R.
- 6—Mt. McGregor Memorial Asso.
- 7—Johnstown Hist. Soc.
- 8—Custodian Saratoga Monument



### CHART III



Key to Chart III, showing lack of correspondence between Appointment and Removal. The heavy faced numbers refer to lines on Chart above.

**Apptd. by Sub. Org. or Heads.**

- 1—Removed as appointed.
- 1—Sing Sing Prison
- 2—Auburn Prison
- 3—Clinton Prison
- 4—Great Meadow Prison
- 5—State Farm Women (Valatie)
- 6—Dannemora State Hosp. Insane Convicts
- 7—Matteawan State Hosp. Insane Criminals
- 8—Dir. Psychiatric Inst.

**Apptd. Gov. W. Adv. & Cons. Sen.**

- 2—Removed P't by rp'l. act apptg. p't as apptd.
- 1—Dept. Efficiency and Economy
- 2—Banking Dept.
- 3—Insurance Dept.
- 4—Dept. Excise
- 5—State Dept. Health
- 6—Health Officer Port of N. Y.
- 7—Dept. Labor
- 8—Dept. State Fire Marshal
- 9—Dept. Agriculture
- 10—Dept. Architecture
- 11—Saratoga Springs State Reserv. Commn.
- 12—Watkins Glen Reserv. Commn.
- 13—Palisades Interstate Pk. Commn.
- 14—Commn. Prom. Uniformity Legis. U. S.
- 15—State Civil Service Commn.
- 16—Commn. State Reserv. (Niagara)
- 17—Newtown Battlefield Commn.
- 18—State Hosp. Commn.
- 19—Bd. Claims
- 20—Bd. Tax Commissioners
- 21—(Bd. Mgrs. Reformatory [Elmira] (Bd. Mgrs. East N. Y. Reformatory [Napanoch])
- 22—Bd. Mgrs. Agr. and Industr. School (Industry)
- 23—Bd. Mgrs. Sch. Blind (Batavia)
- 24—Bd. Trust Washington Headquarters (Newburgh)

**3—Removed as appointed.**

- 1—Prison Dept.
- 2—Dept. Public Works
- 3—Dept. Highways
- 4—Fire Island State Park Commn.
- 5—Public Service Commn. (1st Dist.)
- 6—Public Service Commn. (2nd Dist.)
- 7—State Commn. Prisons
- 8—Conservation Dept. (Commn.)
- 9—State Bd. Port Wardens
- 10—State Bd. Public Charities
- 11—Bd. Mgrs. West Home Refuge Women (Albion)
- 12—Bd. Mgrs. Reformatory Women (Bedford)
- 13—Bd. Mgrs. Training School Girls (Hudson)
- 14—Bd. Mgrs. Indust. Farm Colony (Green Haven)
- 15—Bd. Mgrs. Train. School Boys (Yorktown Heights)
- 16—Bd. Mgrs. Reformatory, Misdemeanants
- 17—Bd. Mgrs. Rome Custodial Asylum
- 18—Bd. Mgrs. Cust. Asy. Feeble-minded Women (Newark)
- 19—Bd. Mgrs. Letchworth Village (Thiells)
- 20—Bd. Mgrs. Inst. Feeble-minded Children
- 21—Bd. Mgrs. Craig Colony Epileptics (Sonyea)
- 22—Bd. Mgrs. Hosp. Care Crippled Children

- 23—Bd. Mgrs. Hosp. Trust. Incip. Tuberc.
- 24—Bd. Mgrs. Women's Relief Corps Home (Oxford)
- 25—Bd. Mgrs. Thomas Indian School (Iroquois)
- 26—Bd. Mgrs. Utica State Hosp.
- 27—Bd. Mgrs. Willard State Hosp.
- 28—Bd. Mgrs. Hudson River State Hosp.
- 29—Bd. Mgrs. Middletown Homeo. State Hosp.
- 30—Bd. Mgrs. Buffalo State Hosp.
- 31—Bd. Mgrs. Binghamton State Hosp.
- 32—Bd. Mgrs. St. Lawrence State Hosp.
- 33—Bd. Mgrs. Rochester State Hosp.
- 34—Bd. Mgrs. Gowanda State Homeo. Hosp.
- 35—Bd. Mgrs. Mohansic State Hosp.
- 36—Bd. Mgrs. Long Island State Hosp.
- 37—Bd. Mgrs. Kings Park State Hosp.
- 38—Bd. Mgrs. Manhattan State Hosp.
- 39—Bd. Mgrs. Central Islip State Hosp.
- 40—State Supt. Elections
- 41—Fiscal Supervisor State Charities

- 4—Removed Gov. (Though apptd. otherwise
- 1—Militia (Maj. Gen.)
- 2—Bd. Trust State Agr. Exp. Sta. (L. I.)
- 5—Removed sen. rec. gov.
- 1—Bronx Parkway Commn.
- 2—State Supt. Weights and Measures

**Apptd. P't Joint Legis. P't Ex-Off.**

- 6—Removed p't rp'l. act apptg. p't as apptd.
- 1—Bd. Trust. Inst. Study Malig. Diseases

**Apptd. Gov., Assemb., Sen.**

- 7—Removed p't by rp'l. act apptg. p't as apptd.
- 1—Commn. Invest. Housing Cond. Cities 2nd Cl.
- 8—Removed as appointed
- 1—N. Y. State Factory Investigating Commn.
- 9—Removed Gov. alone (though apptd. otherwise)
- 1—Pannama-Pacific Exp. Commn.
- 2—Treaty Ghent Commn.

**Apptd. Joint Legis. Appr. Gov.**

- 10—Removed rp'l. act apptg.
- 1—Curtis Monument Commn.
- 2—Irish Brigades Monument Commn.

**Apptd. Joint Legis.**

- 11—Removed as appointed.
- 1—Bd. Statutory Consolidation
- 12—No removal provision specified
- 1—Am. Scenic and Hist. Preserv. Soc.
- 2—N. Y. State Hist. Asso.
- 3—German-American Alliance
- 4—Commn. D. A. R., N. Y. State
- 5—Mahewaswasigh Chap. D. A. R.
- 6—Mt. McGregor Memorial Asso.
- 7—Johnstown Hist. Soc.
- 8—Bd. Regents (Ed. Dept.)

**Apptd. P't Gov. Assemb. Sen., P't Ex-Off.**

- 13—Removed p't rp'l. act apptg. p't as apptd.
- 1—Perry Victory Centennial Commn.

**Apptd. P't Gov. Adv. Cons. Sen. P't Ex-Off.**

- 14—Removed p't by rp'l. act apptg. p't by sen. on rec. gov.
- 1—Bd. Trust. State School Agr. (Morrisville)
- 2—Bd. Control State School Agr. and Dom. Science (Delhi)
- 3—Bd. Parole State Prisons
- 4—Bd. Trust Soldiers and Sailors Home (Bath)

- 15—Removed as appointed  
1—Workmen's Compensation Commn.

Apptd. P't Gov., Mayor N. Y., P't Ex-Off.

- 16—Removed p't rp'l. act apptg. p't as apptd.  
1—N. Y. Bridge and Tunnel Commn.

Apptd. Gov. alone

- 17—Removed as appointed  
1—Voting Machine Commn.  
2—State Racing Commn.  
3—N. Y. State Athletic Commn.  
4—Commn. for Blind  
5—Commn. Invest. Prov. Mentally Def.  
6—Ketchum Memorial Commn.  
7—Commissioner Index Session Laws  
8—Commn. Fed. Legis. Alien Insane  
9—Commn. Invest. Port Conditions  
N. Y. Harbor  
10—Bd. Embalming Examiners  
11—Bd. Exam. Feeble-minded Criminal,  
other Def.  
12—Bd. Trust. (Schuyler Mansion)  
13—Miscellaneous Reporter  
14—Harbor Masters  
15—Spcl. Exam. and Appraiser Canal  
Lands

Apptd. p't by Gov., State Bd. Char., Pris. [Commn.  
p't Ex-Off.

- 18—Removed p't rp'l. act apptg. p't as apptd.  
1—State Probation Commn.

Apptd. p't Gov. p't Ex-Off.

- 19—Removed p't rp'l. act apptg. p't sen. rec. gov.  
1—Bd. Trust State Coll. Forestry (Syracuse)

- 20—Removed p't rp'l. act apptg. p't as apptd.  
1—Bd. Gov. State Nautical School

- 21—Removed as appointed  
1—N. Y. State Fair Commn.

- 22—Removed sen. rec. gov.  
1—Adv. Bd. Promotion Agr.  
2—Bd. Trust Scholarie State Sch. Agr.  
3—State Bd. Geographic Names  
4—N. Y. Mon. Commn. Gettysburg.  
Chatt., Antietam

- 23—Removed p't rp'l. act apptg. p't gov. (though  
apptd. otherwise)

- 1—Bd. Trust. State Sch. Agr. (L. I.)  
2—Const. Conv. Commn.  
3—Commn. Revise and Codify Tax Laws  
4—25th N. Y. Vol. Cav. Monument  
Commn.

Apptd. Fisc. Supvr. Supt. as Chairman Chairman  
Appts. 2 Stwrds., Ann. Meet. Supts. Appts.  
3 own members

- 24—Removed gov. (though apptd. otherwise)  
1—Joint Fur. Comm. Charitable Inst.

Wholly Ex-Officio

- 25—Removed as appointed  
1—Bd. Estimate  
2—State Printing Bd.  
3—State Bd. Canvassers  
4—State Bd. Equalization  
5—State Bd. Classification  
6—Bd. Retirement State Hosp. Employees  
7—Canal Bd.  
8—Trust. Public Bldgs. (Bd.)  
9—Salary Classification Commn.  
10—Building Improvement Commn.  
11—Commn. Sites, Grounds, Buildings  
12—Commissioners Canal Fund  
13—Commissioners Land Office  
14— Battleship "New York" Silver Ser-  
vice Commn.

- 26—Removed repeal act apptg.  
1—Dext. Public Bldgs. (Supt.)

- 27—No removal prov. specified  
1—Custodian Saratoga Monument

Self-Perpet. p't (Non-State Off.) P't Ex-Off.

- 28—Removed p't rp'l. act apptg. p't gov. (though  
apptd. otherwise)  
1—Bd. Mgrs. Soc. Ref. Juv. Del. N. Y. C.  
(Randall's Is.)

Appointed Court Appeals

- 29—Removed as appointed  
1—State Bd. Law Examiners  
2—State Reporter

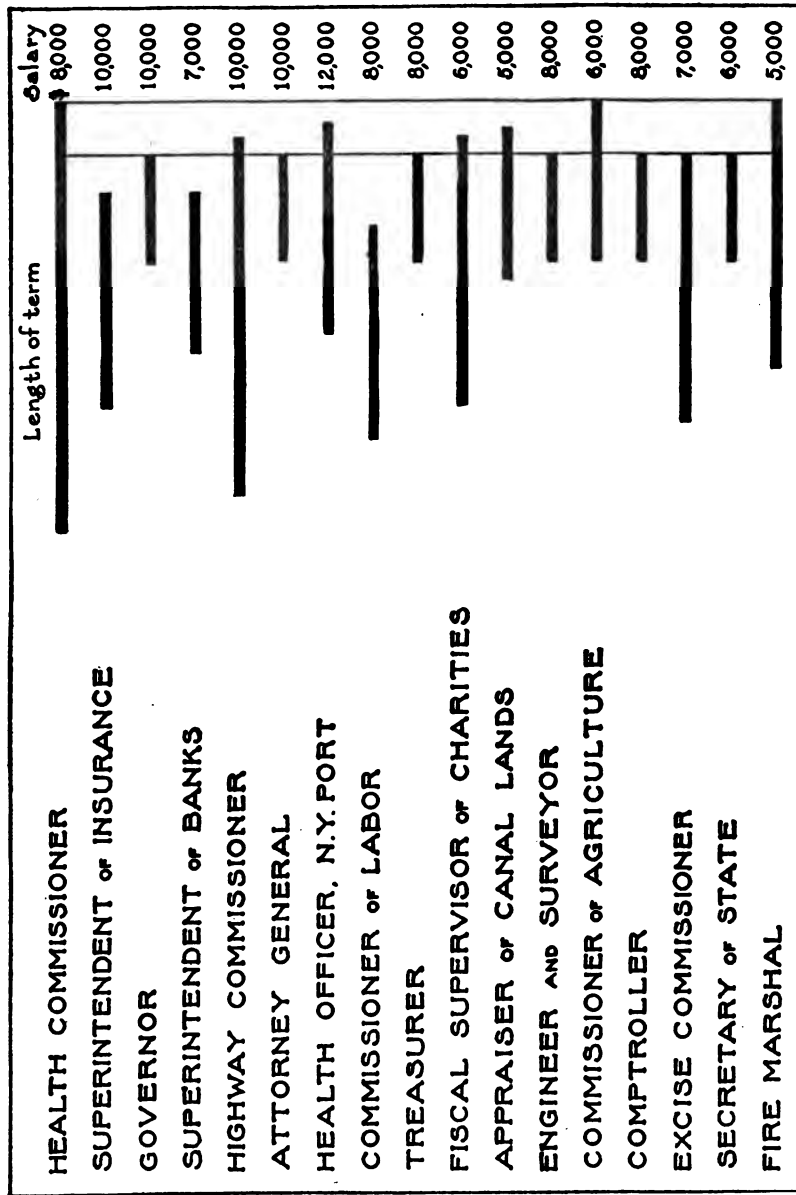
Apptd. Appellate Div. Supreme Court

- 30—Removed as appointed  
1—Supreme Court Reporter





CHART SHOWING IMPORTANCE OF GOVERNOR'S POSITION BY COMPARISON OF SALARIES  
AND TERMS OF A FEW OF THE ONE HUNDRED AND FIFTY EXECUTIVE UNITS IN NEW  
YORK. (Prepared by Miss H. S. Lowitt.)



*The Unique Position of the State Executive*

The present organization of the State executive is unique. Executive officers of a State government are not the servants of the legislature, as in Switzerland; they are not the responsible guides of the legislature, as in England; nor does the chief executive possess the controlling authority in the execution of the laws, as under the United States government.<sup>78</sup> Decentralization characterizes the State executive, while the executives in England, France, Germany, the other great European States, and in the United States are highly centralized.<sup>79</sup>

The sharp contrast between the federal and State executives lies in the fact that the national organization is unified, while the State executive is the distributed type.<sup>80</sup> The State executive is not hierarchical; the national executive is.<sup>81</sup> "The President of the United States is the only executive officer of the federal government who is elected; all other federal officers are appointed by him, and are responsible to him. Even the chief of them bear only the relation of advisers. Of State officials associated with the Governor, it may on the other hand, be said that both in law and fact they are colleagues of the Governor, in no sense his agents or subordinates, except perhaps in formal precedence. They, like himself, are elected by the people; he is in no way concerned in their choice. Nor do they serve him after election. They are not given him as advisers; they are on the contrary coördinated with him."<sup>82</sup>

President Wilson, writing as a student of State government, has further delineated the State executive as it is:

"The governor is not the *executive*; he is but a single piece of the executive. There are other pieces coördinated with him over which he has no direct official control, and which are of less dignity than he only because they have no power to control legislation, as he may do by his veto, and because his position is more representative perhaps of the State government as a whole, of the people of the State as a unit. Indeed, it may be doubted whether the governor and other principal officers of the State can even when taken together be correctly described as *the executive*, since the actual execution of the laws does not rest with them but

<sup>78</sup> Wilson; *State and Federal Governments of the United States*, pp. 65-66.

<sup>79</sup> Goodnow; *Comparative Administrative Law*, II, 51, 88 ff. and 145; *Report of Illinois Efficiency and Economy Committee*, p. 28.

<sup>80</sup> Finley and Sanderson; *The American Executive*, p. 29.

<sup>81</sup> See especially 3 Illinois 118-120 for this marked contrast.

<sup>82</sup> Wilson; *State and Federal Governments of the United States*, p. 68.

with the local officers chosen by the towns and counties and bound to the central authorities of the State by no real bonds of responsibility whatever."<sup>88</sup>

Do we want a broken-jointed State executive?

<sup>88</sup> Wilson; *State and Federal Governments of the United States*, p. 69.

## CHAPTER II

### STATE EXECUTIVE ORGANIZATION DEFECTIVE

#### *Summary of Defects*

Political scientists on principle, State Governors from experience, and special commissions after investigation have arraigned the State executive. They charge:

1. That the State executive is *not responsible* either to the Governor or to the people;
2. That the executive department of State government is *not responsive* to the will of the department chief or to the will of the people;
3. That the State executive is *not efficient*;
4. That the State executive is *not economical*.

#### *Political Scientists, Governors, and Special Commissions as Critics*

The character of the critics gives sufficient weight to the arraignment to prevent its summary dismissal.

Among the political scientists who criticise the State executive are such men as Wilson, Bryce, Fairlie, Goodnow, Beard, Bradford, Croly, Finley and Sanderson, Reinsch, and Young.

If State Governors have not the judicial detachment of political scientists, they have the first-hand experience of their work. They base their criticisms on difficulties personally encountered. In evaluating their testimony it would be an error to regard the complaints as party war-cries, for the complainants belong to different political parties and condemn the system under which any party power must operate; moreover, State executive reorganization has not been a frequent campaign issue.<sup>1</sup> Nor can the desire for increased personal power be held a controlling motive with State Governors, since many of them were restricted as to their terms of office by constitutional provisions.

The following lists indicate something of the extent of criticism of the State executive by Governors.

<sup>1</sup> The "short ballot" has come up as a distinct issue in Ohio, California and Iowa. The proposed constitution for New York was an issue November 2, 1915. The Peoples Power League in Oregon initiated a movement to secure, 1912, an amendment to the constitution reorganizing the State executive. But executive reorganization has not been a regular plank in any party platform.

John T. Hoffman, New York;<sup>2</sup>  
 J. Frank Hanley, Indiana;<sup>3</sup>  
 Francis E. McGovern, Wisconsin;<sup>4</sup>  
 W. E. Russell, Massachusetts;<sup>5</sup>  
 Charles E. Hughes, New York;<sup>6</sup>  
 S. W. Pennypacker, Pennsylvania;<sup>7</sup>  
 Claude Matthews, Indiana;<sup>8</sup>  
 G. H. Hodges, Kansas;<sup>9</sup>  
 Lee Cruce, Oklahoma;<sup>10</sup>  
 Wm. W. Kitchin, North Carolina;<sup>11</sup>  
 Emmett O'Neal, Alabama;<sup>12</sup>  
 Edwin L. Norris, Montana;<sup>13</sup>  
 Woodrow Wilson, New Jersey;<sup>14</sup>  
 John E. Shafroth, Colorado;<sup>15</sup>  
 Ernest Lister, Washington;<sup>16</sup>  
 Wm. Hodges Mann, Virginia;<sup>17</sup>  
 Moses Alexander, Idaho;<sup>18</sup>  
 R. L. Williams, Oklahoma;<sup>19</sup>  
 W. S. Hammond, Minnesota.<sup>20</sup>

<sup>2</sup> Message of 1871.

<sup>3</sup> Message of 1909.

<sup>4</sup> Letter of April 21, 1914, to the newspapers<sup>5</sup> of Wisconsin.

<sup>5</sup> Message of 1892.

<sup>6</sup> Message of 1910; Beard's *Readings*, p. 436; *Public Papers of Charles E. Hughes*, pp. 28-29.

<sup>7</sup> *New York State Library Yearbook of Legislation*, 1905; digest of Governor's messages, 40 d.

<sup>8</sup> Message of 1895.

<sup>9</sup> Message March 10, 1913; also *Proceedings, Conference of Governors*; 1913.

<sup>10</sup> *Proceedings of Governors*, 1911, p. 66.

<sup>11</sup> *Ibid.*, p. 43.

<sup>12</sup> *Ibid.*, pp. 25 ff.

<sup>13</sup> *Ibid.*, pp. 14-15.

<sup>14</sup> *Ibid.*, pp. 18 ff.

<sup>15</sup> *Ibid.*, p. 60.

<sup>16</sup> *Governors' Conference Proceedings*, 1913, pp. 111, 136.

<sup>17</sup> *Ibid.*, p. 128.

<sup>18</sup> *Governors' Conference Proceedings*, 1915; *Philadelphia Record*, August 25, 1915.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*, *Philadelphia Record*, August 26, 1915.

In 1914, seventeen Governors, in answer to a personal inquiry as to their satisfaction with the present organization of the State executive, made specific or general criticisms.<sup>21</sup>

A review of the 1915 messages of Governors shows some form of criticism of the State executive by the Governors of twenty-six States, namely, Alabama, Colorado, Michigan, Nevada, New York, Oklahoma, Oregon, Washington, West Virginia, Idaho, Kansas, Minnesota, New Jersey, Tennessee, Wisconsin, Massachusetts, Connecticut, Missouri, New Hampshire, Pennsylvania, Utah, Wyoming, New Mexico, North Dakota, Ohio, California.<sup>22</sup>

The importance to be attached to the findings of the third group of critics of the State executive is evidenced by a brief appraisal of their work. In fourteen States permanent or temporary commissions have recently been engaged with the problem of the efficiency and economy of their respective commonwealth governments.<sup>23</sup> The commissions in Louisiana, Mississippi, and South Dakota restricted their work to auditing accounts and introducing accounting methods; but in Massachusetts, New Jersey, New York, and Wisconsin the investigations dealt with governmental organization; and the commissions in Connecticut, Illinois, Minnesota, Iowa, and Pennsylvania were primarily concerned with the question of executive reorganization. With the reports of these economy and efficiency commissions is to be listed the work prepared by

<sup>21</sup> Most of these criticisms fall under the first two of the four general charges; see p. 33. This questionnaire was addressed to the Governors of all the States; twenty-one replies were received,—from the Governors of Ariz., Calif., Conn., Del., Fla., Idaho, Ill., Iowa, Mich., Minn., Mont., N. H., N.M., N.D., Okla., Ore., Tex., Wash., W. Va., Wis., and Wyo. Only two of the twenty-one replies indicated a desire to maintain the present State executive organization, and two were non-committal. These letters are in the writer's possession.

<sup>22</sup> For a convenient resumé of these messages see the *American Political Science Review* for May, 1915, pp. 320, 321. For a digest of the messages of various Governors from 1905-1908 see the *New York State Library Yearbooks of Legislation*, 1905-1908. Many of the Governors during this period dealt, in their messages, with the question of State executive organization.

<sup>23</sup> Permanent investigators: Department of Economy and Efficiency in Mass.; Department of Efficiency and Economy in N. Y.; Board of Public Affairs in Wis.; Budget Commissioner in Ohio.

Temporary Commissions: Conn., Ill., Iowa, La., Minn., Miss., Neb., N.J., Pa., and S. Dak. For a summary of the dates and methods of creating these commissions, the scope and nature of their work, see the *Rhode Island Legislative Reference Bulletin* No. 7 (January 1915), the May 1915 issue of the *American Political Science Review*, pp. 317-320, and *Illinois Efficiency and Economy Committee Report*, p. 26.

the New York Bureau of Municipal Research for the New York Constitutional Convention.<sup>24</sup>

These committees of investigation did their work under legislative authorization. They were composed either of members of the legislature—who in some instances employed experts, attorneys,<sup>25</sup> and efficiency engineers,<sup>26</sup> as well as other assistants—or of members of the legislature and citizens appointed by the Governor,<sup>27</sup> or of persons selected by the Governor without regard to any official connection with the State.<sup>28</sup>

Pressed, on the one hand, by increasing government functions and a huge rise in the cost of administration,<sup>29</sup> and on the other hand by popular restlessness over growing taxation to carry on this new work of govern-

<sup>24</sup> An *Appraisal of the Constitution and Government of the State of New York*. This study was based on the factual report of the New York Efficiency and Economy Department, entitled *Organization and Functions of State Government*. For a detailed analysis of the *Appraisal* see Appendix to *The New Republic*, August 21, 1915, by Charles A. Beard.

<sup>25</sup> As in Illinois. Professor John A. Fairlie was director of the investigational work. Other experts were engaged to report on the different departments of government. See pp. 13-18 of the *Illinois Report* for full data as to the personnel and methods of the Committee.

<sup>26</sup> In Iowa.

<sup>27</sup> New Jersey Commission.

<sup>28</sup> Pennsylvania and Minnesota. The Minnesota Commission, "in personnel, ability, training, and experience, deserved to rank with a constitutional convention. It was composed of the President of the State Federation of Labor, six bankers, two capitalists, one real-estate man, one hotel proprietor, eight lawyers, one political writer, one clerk of a district court, one member of the Board of Health, the private secretary of the Governor, one member of the Educational Commission, two university professors (one, the President of the American Economic Association), a consulting statistician (a university professor and former director of the United States Census). Eight members had experience in the State legislature; all sections of the State and all phases of political opinion were represented. The members were unpaid; they bore their own travelling expenses, and raised money by private subscription to employ a secretary." *American Political Science Review*, May, 1915, p. 274.

<sup>29</sup> In Minnesota expenditures jumped from about a million dollars in 1880 to almost fifteen million in 1912. See chart p. 5 of *Preliminary Report Efficiency and Economy Commission*. "The States in ten years increased their expenditures nearly one hundred per cent"; Ralph E. George, "Increased Efficiency as a Result of Increased Governmental Functions," March, 1916 *Annals of the American Academy of Political and Social Science*. "Measured by amounts expended or numbers employed, the new functions comprise from three-fourths to nine-tenths of the activities of most States." John S. Pardee, *Outlook* p. 619 November 10, 1915.

ment,<sup>30</sup> the legislatures were keen to have the investigations so thorough that a way out of their dilemma might be opened. *Efficiency for economy*<sup>31</sup> indicates the purpose of these special investigations. The criticisms offered are then of peculiar significance to the taxpayer. And when they go beyond fiscal matters to the fundamental principles of executive organization, the reports merit a public hearing commensurate with the thoroughness and impartiality of the investigation.

### *Final Test for Criticisms*

In determining the validity of the criticisms of State executive organization it is inevitable that some importance be attached to the unanimous opinion of political scientists, Governors, and special commissions of investigation. The four general charges, however, are made up of particular criticisms which may severally be examined in connection with the facts of executive organization.

### *Effect of Making State Officers Independent of the Governor*

"The relations of the heads of departments with the chief executive authority are of the greatest importance, for on their nature depends whether there is to be harmonious administration following out some general plan, or whether the head of each department is to be a law unto himself and is to be able to conduct the affairs of his department in such manner as he sees fit regardless of the needs of other departments and of the wishes of the chief executive."<sup>32</sup> That the present State executive organization does not provide for a "harmonious administration following out some general plan" is clear from the following typical criticism: "Under the system that now prevails, the governor has no power to call together the heads of the executive departments in consultation to control their action, or to guide their policy. They may be of different political affiliations not only out of sympathy with the executive, but actually opposed to any policies he may represent or any reforms he may seek to accomplish. The extent of the supervision the governor may exercise in most States consists of the mere right to ask for sworn reports. He is in nearly every State without any power to control or shape their

<sup>30</sup> See article by Dr. George in the *March Annals*, just cited.

<sup>31</sup> A good example of the financial treatment of the problem of executive organization is the second *Report of the Commission upon the Reorganization and Consolidation of the Different Departments of State Government*, contained in Governor Fielder's Message of February 16, 1914; New Jersey.

<sup>32</sup> Goodnow; *Comparative Administrative Law*, II, 134.



policies, to secure their disinterested counsel and advice, and is at best no more than a first among equals."<sup>33</sup>

A sufficiently striking case in which the "State officers" not only did not act in harmony with the Governor, but played politics against their nominal chief, came up in Wisconsin in 1914. The Attorney-General, the Secretary of State, and the State Treasurer went to Governor McGovern and demanded a special session of the legislature for the purpose of reducing appropriations and lowering taxes. The scheme, the governor showed,<sup>34</sup> was "hatched in the dark" by a few department heads who met in secret, called upon State clerks and employees to furnish data "with which to bolster up their proposal," and then exacted a pledge that the matter be secretly kept from him. They arranged the publicity end of the plan in such a way that the papers had information of the move even before the Governor did, and in such a way as to make out a great popular demand, when in reality no such demand existed.<sup>35</sup> The Governor denied the petition on the grounds of inexpediency. But regardless of the merits of the case, it shows the possibility of State officers' trying to discredit their "executive head," and so acting with impunity. "Imagine if you can," says Governor McGovern, "a similar situation at Washington wherein the Attorney-General, Secretary of State, Secretary of the Treasury, and Vice-President, with other departmental heads, conspire in secret to put the President 'in a hole.' They may do it with more or less impunity here because the constitution makes them coördinate and not subordinate officers."<sup>36</sup>

By constitutional provision "State officers" are independent of the Governor<sup>37</sup> and of each other. They may act in such manner, within their particular statutes, as they see fit, "regardless of the needs of other departments and of the wishes of the chief executive." It is clear that with the term of State officers not always the same, nor synchronous with that of the Governor,<sup>38</sup> from the accidents of election they may belong to different political parties and hold opposing views as to the way

<sup>33</sup> Governor O'Neil; *Proceedings of Governors*, 1911, p. 29. Governor West of Oregon and Governor Felker of New Hampshire commented that "no great business corporation could escape bankruptcy if operated under so disjointed a plan."

<sup>34</sup> See his letter of April 21, 1914, to the newspapers of Wisconsin.

<sup>35</sup> See Statistics in the governor's letter, *ibid.*

<sup>36</sup> From personal letter to the writer.

<sup>37</sup> Wilson; *State and Federal Governments of the United States*, p. 69.

<sup>38</sup> Tables pp. 5 and 15. "When a Governor is inaugurated in New York, and undertakes the exercise of the executive power vested in him by the constitution, he finds himself at the head of a staff of officers already installed for two, three, four or five years, as the case may be, and able to resist his power of removal in most instances by

the commonwealth business should be carried on.<sup>39</sup> What is even more conducive to unfriendly relations is a situation in which the Governor and "State officers" belong to contending factions within the same party. And in case of conflict the Governor cannot restore harmony, as could the President, by removing one or more department heads.<sup>40</sup>

It is true that the extra-constitutional provision of party tickets also makes possible a harmonious executive family,<sup>41</sup> but the criticism is that no method of bringing about unity of thought and action offers if the men who assist the Governor in seeing that the laws be faithfully executed are at loggerheads with him or with one another. In such case—which is not merely hypothetical<sup>42</sup>—the will of the State is not executed because State officers are not responsible to their chief or responsive to his will.

#### *Independence of Local Officers v. the Enforcement of State Laws*

Local officers are completely independent of the Governor.<sup>43</sup> The result is fairly stated in the following excerpt: "The governor of the State is charged by the constitution with the faithful enforcement of the the laws of the State. Under the law he cannot act effectively except through local officials. He has no authority to direct the action of any county sheriff or prosecuting attorney in any case. It is unjust, as it is idle, to charge the executive with the enforcement of law and then leave him without the effective means of discharging the duty imposed."<sup>44</sup> Another Governor complains: "You take it in most of the States of the Union—I know it is true in mine—the governor has no power to make a sheriff do what he should do."<sup>45</sup> A third reiterates the common plaint: "I am required by the Constitution to enforce the laws. But there is

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political combinations in the Senate. This system of overlapping tenures, so far as it is founded on principle, is based on the theory of negation, namely, that the Governor cannot be entrusted with power adequate to discharge the trust reposed in him. In large measure, however, it is the result of accident, temporary expedients, and party considerations. Whatever the reason, it is incompatible with constructive principles of government based on practical experience in the conduct of affairs." *Appraisal of the Constitution and Government of New York*, p. 45.

<sup>39</sup> Finley and Sanderson; *The American Executive*, pp. 46, 47. Also, Governor Hoffman's Message, 1871, p. 58.

<sup>40</sup> Compare Goodnow; *Comparative Administrative Law*, II, 135-6.

<sup>41</sup> Fairlie; *The State Governor*, p. 17.

<sup>42</sup> Goodnow; *Comparative Administrative Law*, pp. 137-8.

<sup>43</sup> See Chapter I; sections dealing with local officers.

<sup>44</sup> Governor Hanley's Messages, 1905-9; 65th General Assembly.

<sup>45</sup> Governor Cruce; *Proceedings of Governors*, 1911, p. 66.

not a sheriff or any other county officer dependent upon me; he can defy me, he can say 'I will not enforce those laws.' The only power I have is to call out the militia to suppress something."<sup>46</sup>

If particular communities do not wish the State law enforced, the local authorities charged with that duty wear blinders, and violations of the law are not officially seen. This is especially true of liquor and gambling laws.<sup>47</sup> And the failure of local officials to punish the ring-leaders of lynching, burning mobs is notorious.<sup>48</sup> Although in these cases—far from hypothetical—the newspapers call loudly upon the Governor to "wipe out the blot on the fair name of the State," they are asking of him the impossible. He has no power of control over local officers.<sup>49</sup> And, as the Governor of West Virginia put the matter, when certain laws are looked upon as dead letters, or no local heed is given to statutory mandates, these abuses "grow and spread and tend to create a wholesale disregard for the law as an instrument for the punishment of its violators."<sup>50</sup>

If the will of the State is not to continue to be ineffective as over against the will of particular communities, the negative relation of the Governor to local officers must be changed into a positive control; local executive officers, insofar as they are State agents, must be made responsible and responsive to the supreme executive.

#### *The Governor's Inability to Control Actions of State Boards*

The absence of any real control by the Governor over State boards and commissions is the basis of the criticisms having to do with the relation of the Governor to these divisions of the executive. The largest power over State boards that has been conferred on the Governor is that

<sup>46</sup> Governor Norris; *Ibid.*, p. 15. This power to call out the militia to enforce State law is scarcely to be considered executive control over local officers.

<sup>47</sup> The merit of these laws is beside the point; the question is one of enforcement while they are on the statute books. An investigation of the Porter County race track case in Indiana (1913) shows how powerless is the Governor to enforce the State law against gambling when a locality favors its violation. The Governor had finally to resort to the militia. Further, it is an open secret that French Lick, Indiana, is the Monte Carlo of the United States; yet the law of the State forbids the operation of gambling resorts. These are but two illustrations; other States can "boast" similar instances, either of violation of gambling laws or the scarcely concealed running of "blind tigers."

<sup>48</sup> No better illustration could be found than the case of Leo Frank in Georgia.

<sup>49</sup> Except in rare instances, such as N. Y., Wis., Ill., and Mich., where he can remove certain local officers.

<sup>50</sup> From personal letter, 1914.

of appointment.<sup>51</sup> Without a similarly extensive power of removal, however, the appointive power gives him no effective control.<sup>52</sup> Moreover, the terms of board members frequently are not synchronous with that of the Governor; when he comes into office many of these commissions are already appointed and independent of him, or else he makes his appointments and goes out of office bequeathing to his successor the praise or blame attaching to the work of his appointees.

After enumerating the various State boards and commissions which have come into being as part of the executive department, Governor Hammond of Minnesota thus characterized the situation:

"All this has resulted in giving the State not one Governor, but a number of Governors, one of whom is elected, the others appointed by various boards and commissions. The Governor of the State bears about the same relationship to many of these boards as he bears to the Courts, and it is fundamental that the executive and the judicial departments shall be independent of each other. If a Judge resigns, the Governor may appoint his successor, so if one of these members should resign the Governor could appoint his successor, but he has about as much to do with the policies and the work of these boards as he has with the hearing and determination of cases of law."<sup>53</sup>

The Illinois Efficiency and Economy Committee, referring to the relation between the Governor and State boards, makes these further criticisms:

"Under the present arrangements too many independent authorities have power to make expenditures subject to no centralized control or responsibility. This situation necessarily leads to waste and extravagance."<sup>54</sup> "At the same time, the number of matters necessarily brought to the attention of the Governor—owing to the absence of intermediate supervising officers—has burdened him with such a mass of details that he has been unable to exercise adequate supervision over such matters,

<sup>51</sup> See Chapter I, p. 8.

<sup>52</sup> Compare article by L. A. Blue; *Annals American Academy*, 18:443. Also thesis by Blue on *The Governor and Executive Organization*, pp. 6, 7. Where the Governor has rather exceptional removal power, as in Illinois, this is the comment: "It is true that the greater number of these (State offices, boards, and commissions) are under the nominal supervision of the Governor, through his powers of appointment and removal. But the very number of separate offices makes impossible and exercise of adequate control." *Report of the Illinois Efficiency and Economy Committee*, p. 21.

<sup>53</sup> Governors' Conference 1915; *Philadelphia Record*, August 26, 1915.

<sup>54</sup> *Report of the Illinois Efficiency and Economy Committee*, p. 21.

while the very volume of such business brought to his attention takes time from more important questions of general policy."<sup>55</sup>

All four of the general charges against the State executive seem to be levelled at the relation of the Governor to State boards.

*The Governor's Power of Appointment too Limited*

So impartial an observer as Bryce suggests that the Governor's range of appointing power is too restricted: "In the opinion of some judicious publicists the State executive arrangements might be improved by vesting the appointment of the chief officials in the governor, instead of leaving it to direct popular election. This would tend to give more unity of purpose and action to the administration."<sup>56</sup>

Any lack of appointing power is naturally felt most keenly by the Governor himself: "If you take an office like the office of Governor of North Carolina, he has little appointive power. That deprives him of the responsibility to the public which the average man in the State puts upon him."<sup>57</sup>

This same criticism, however, is offered by a bureau of expert investigators: "The appointment of subordinates is an essential of executive responsibility"; the Governor should have the power to determine the fitness of his assistants.<sup>58</sup> The present organization of the State executive is defective to the degree that it does not allow the Governor this power.

*The Governor's Power of Removal Negligible*

If the Governor's appointing power is limited, his power of removal is negligible.<sup>59</sup> The comparative effect of these strictures is set forth in an opinion by Professor Fairlie: "To the limited power of removal possessed by the State Governor more even than to the restrictions and limitations on his appointing power, is due the lack of an effective control by the Governor over the State administration as a whole. The removal power of the President has made him the directing head of the national administration, but in the absence of this power the Governor is not always able to compel inferior officials to act, and in such cases he cannot be held responsible for their share in the administration."<sup>60</sup>

<sup>55</sup> *Report of the Illinois Efficiency and Economy Committee*, p. 21.

<sup>56</sup> *American Commonwealth*, I, 526.

<sup>57</sup> Governor Kitchin; *Proceedings of Governors*, 1911, p. 43.

<sup>58</sup> *Appraisal of the Constitution and Government of New York*, p. 33.

<sup>59</sup> See Chapter I, sections detailing the Governor's powers of appointment and removal.

<sup>60</sup> *The State Governor*, p. 19.

Professor Young implies the same criticism in his suggestion that "the 'Governor's Recall' of disobedient officers would offer a powerful means of establishing new standards of service in all grades of public office."<sup>61</sup> In short, "an examination of the present provisions, constitutional and statutory, for removals shows the same confusion and lack of reasoned purpose as were found in the case of methods of appointment,"<sup>62</sup> and critics are united in the view that the efficiency of the executive personnel is dependent in great measure upon an enlargement of the Governor's power to dismiss subordinate officers.

### *The Governor's Power of Control Ineffectual*

The Governor's lack of any substantial power of control and direction has shown in the analysis of his relation to the different classes of executive officers, but the criticisms pertaining thereto may again be emphasized. Without the "big stick" that the power of removal puts in the Governor's hands, he does not have supervision of the work of his department. As one writer puts the matter, "He is a passenger on board a ship navigated by a crew which he does not select and over which he has few powers of command."<sup>63</sup> The Illinois Efficiency and Economy Committee gives a section of its report to "ineffective supervision."<sup>64</sup> The New York "Appraisal" lays bare in one sentence the whole situation: "The fact is that that constitution itself inhibits the development of a responsible chief executive."<sup>65</sup> "Government Running Wild" is the apt title of a recent article on the State executive.<sup>66</sup>

"Shall the State continue to do business with a headless, spineless institution whose moving impulse comes from an external agency or organism which seeks to exploit State activities for its selfish ends, or

<sup>61</sup> *The New American Government and its Work*, p. 319.

<sup>62</sup> *Appraisal of the Constitution and Government of New York*, p. 40. This specific criticism of the New York situation is susceptible of general application.

<sup>63</sup> J. S. Landon; *Constitutional History and Government of the United States*, p. 63.

<sup>64</sup> Report, p. 21.

<sup>65</sup> Page 97.

<sup>66</sup> John S. Pardee; November 10, 1915, *Outlook*. An excellent brief appraisal of the State executive; especially forceful because of the homely comparisons drawn between the situation in the State and the citizen's home and business methods.

Neither the Governor nor the people through him have any real control over the executive. Governor Alexander in 1915 Conference of Governors; Wilson, *State and Federal Governments of the United States*, p. 75; Herbert Croly, *The Promise of American Life*, p. 324.

shall the people choose as their servant a chief executive who will be held to account for using the personnel and resources of the government for the common good?"<sup>67</sup>

*Responsibility Without Power*

According to the Report of the Illinois Efficiency and Economy Committee "public opinion usually considers the Governor responsible for the conduct of the State government, but with the lack of effective executive control over the subordinate officials this opinion is not fully justified."<sup>68</sup> One Governor in 1914 stated: "I am just now having an experience that strongly indicates that the Governor will be held responsible by the people for whatever occurs, whether he has anything to do with it or not. It is an injustice for him to bear the blame for everybody unless he has power to control executive officers."<sup>69</sup>

The question at bottom really is a simple one:<sup>70</sup> do the people want a chief executive? do they want the Governor to manage the State executive work?

*Criticism of the Elective Principle as Applied to Executive Offices*

One chief reason why the State executive is not responsible or responsive to the Governor or the people is found in the "dogma that executive officers, regardless of their duties, must on democratic principles be elected."<sup>71</sup> The elective principle as now applied to executive offices has not only deprived the Governor of his power to determine the fitness of his assistants for their positions, and operated to make them independent of him, thus preventing in many cases any unified executive action, but it has also made possible that "invisible government" it was expected to avoid.<sup>72</sup>

In 1871 Governor Hoffman of New York pointed out that "the framers of the constitution of 1846, eager for decentralization of power, made the mistake of supposing that this was to be effected by breaking apart and disconnecting the machinery whereby the State government is

<sup>67</sup> *Appraisal of the Constitution and Government of New York*, p. 96.

<sup>68</sup> P. 24. See also Chapter I, p. 12.

<sup>69</sup> Letter from G. W. Clarke, of Iowa, to writer. See also statement of Governor Mann, p. 128 of *Governors' Conference Proceedings* 1913, and of Governor Lister, in the same *Proceedings*, p. 136.

<sup>70</sup> Young; *The New American Government and its Work*, p. 316.

<sup>71</sup> *Appraisal of the Constitution and Government of New York*; see pp. 31-33 especially.

<sup>72</sup> *Ibid.*

carried on, and by multiplying the number of elective officers."<sup>73</sup> Instead, an extra-legal centralization was really insured.<sup>74</sup> And perhaps no better criticism of this "invisible government" could be cited than an excerpt from Elihu Root's speech on the short ballot in the New York Constitutional Convention.<sup>75</sup> In this arraignment of government by bosses, it may be conceded that Mr. Root speaks as one with authority:

"We talk about the government of the Constitution. What is the government of this State? What has it been during the 40 years of my acquaintance with it? The government of the Constitution? Oh, no; not half the time, or half way. When I asked what did the people find wrong in our State government, my mind goes back to those periodic fits of public rage in which the people arose and tore down the political leader, first of one party and then of the other party.

"I am talking about the system. From the days of Fenton and Conkling and Arthur and Cornell and Platt, from the days of David B. Hill down to the present time, the government of the State has presented two different lines of activity, one of the constitutional and statutory officers of the State and the other of the party leaders—they call them party bosses.

"They are called the system—the 'invisible government.' For I don't remember how many years, Mr. Conkling was the supreme ruler in this State; the Governor did not count, Legislatures did not count. And in a great outburst of public rage he was pulled down. Then Mr. Platt ruled the State, for nigh upon 20 years. And the capital was not here; it was at No. 49 Broadway; with Mr. Platt and his lieutenants.

"And there is today throughout this State a deep and sullen resentment at being governed thus by men not of the people's choosing. The party leader is selected by no one, accountable to no one. Bound by no oath of office, removable by no one.

"I don't criticise the men of the invisible government. How can I? I have known them all, and among them have been some of my dearest friends. But it is all wrong that a government not authorized by the people should continue superior to the government that is authorized by the people. Both parties are alike. All parties are alike. The system extends through all.

"I deny that we cannot change it. I assert that this perversion of democracy can be changed as truly as the atmosphere which made the

<sup>73</sup> *Message* 1871, p. 62.

<sup>74</sup> *A Appraisal of the Constitution and Government of New York*, pp. 29 ff.

<sup>75</sup> August, 1915.



*credit mobilier* scandal possible in the Congress of the United States was blown away by the force of public opinion.

"We can take this one step toward not robbing the people of their part in government, but toward robbing an irresponsible autocracy of its indefensible and unjust and undemocratic control of government, and restoring it to the people to be exercised by the men of their choice and their control."<sup>76</sup>

This New York situation is typical rather than unique.<sup>77</sup> Whatever the State, "every check and limit which is placed on the Governor's appointive and executive authority is a means of directing responsibility from him to these outside forces which escape public observation and responsibility."<sup>78</sup> In the multiplicity of elective offices is found a cause of rule by bosses rather than by the people.<sup>79</sup>

Popular election of executive officers, ranging from State Veterinarian and Geologist to Auditor and Attorney-General, assumes the competence of the State electorate to choose ten, twenty or more expert officials at the same time. No one questions the capacity of the people to select a few of these officers; but it is felt that there must be a limit to the num-

<sup>76</sup> *Philadelphia Record*, August 31, 1915.

Full speech in *Publication No. 2a of the Committee for the Adoption of the Constitution*. Speech of August 30, 1915, on Executive Reorganization as a Step toward the Abolition of "Invisible Government."

<sup>77</sup> Witness the sway of Mr. Penrose in Pennsylvania, or Mr. Taggart in Indiana. New Jersey testimony is also in point:

"Trenton, Sept. 5.—The stirring address of former Senator Root before the New York Constitutional Convention the other day, an address that will live in the history of America, might have been made to an assemblage of Jerseymen with the same degree of force and application. It was all the more forceful and significant for coming from a source for so many and important years allied with the men whose domination of the government in the Empire State meant so little for the common welfare.

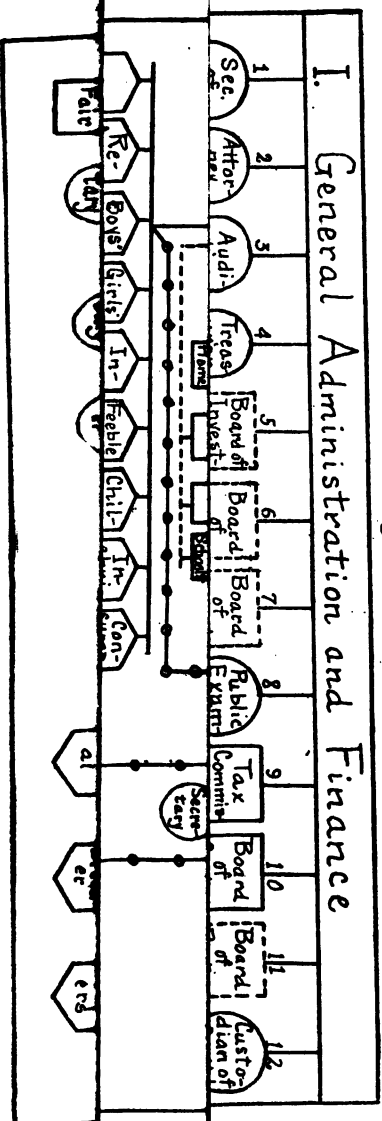
"Senator Root was part and parcel of the Republican Machine, which, like that of New Jersey was for the Machine first, and that meant the great corporate interests which assumed and held sway over it. It must have taken more than the ordinary store of courage for him, therefore, to exhume the remains of that great power and turn upon them the light of modern progress. His bitter arraignment of the secret powers, the 'invisible government,' the operations of the men so weak that their spirits were as vapor and so vacillating that their spines were as rubber, can be set up here in New Jersey as applicable to that long line of so-called leaders in charge of the Republican party whose sole aim and purpose has been to care for the interests of those they serve." From *Philadelphia Record*, September 6, 1915.

<sup>78</sup> Young; *The New American Government and its Work*, p. 316.

<sup>79</sup> See also Governor Hughes' Message of 1910; *Public Papers of Charles E. Hughes*, pp. 28-29; Beard, *American Government and Politics*, p. 480; Governor Shafroth's speech in the 1911 *Governors' Proceedings*, p. 60.

# Minnesota Executive Present Organization

Key





ber so chosen, that the present overcrowding of the voter's task cannot result in the wisest selection of public servants. To the voter and taxpayer the problem is no longer one of securing merely "honest men," but rather honest and *efficient* executive officers. If a dollar's worth in goods or service for every dollar spent is desired, another method of selecting executive officers will be more conducive to that end.

The question here again is at bottom a simple one: do the voters of a State want an invisible government or an executive responsible to them? And do they want efficiency and economy in the conduct of the State's business?

#### *Faults of State Boards*

The arraignment of State executive boards and commissions *per se* is sweeping and severe, even as compared with the criticism of the Governor's relation to these bodies.<sup>80</sup> According to the report of the Minnesota Efficiency and Economy Commission—

"The worst faults in the present organization of the state government—the same is true of practically every state in the Union—are lack of unity and lack of responsibility. The government is incoherent. There are a multitude of disconnected, unaffiliated departments and bureaus,<sup>81</sup> over which neither the governor nor the legislature nor the people have effective control. For want of coördination, there is duplication of work and an unnecessary number of employees."<sup>82</sup> And in support of this general indictment the Commission submits the following chart and comment:

<sup>80</sup> See criticism, Chapter II, pp. 40-42.

<sup>81</sup> Boards are included in this statement, of course.

<sup>82</sup> *Preliminary Report*, p. 8.

"This chart discloses three main defects in the present organization, namely: Multiplicity of independent branches; diversity in the form; predominance of the board system.

"The number of branches of the state government, including semi-public associations receiving aid from the state, is now about seventy-five. Most of these stand entirely aloof from one another. The chart accordingly shows them hanging on separate vertical lines.

"A single illustration shows the lack of coördination. Recently the state fire marshal received from a hotel man in southern Minnesota a letter something like this:

'Dear Sir: The hotel inspector has ordered me to put in a new floor. One of your deputies has instructed me to tear down the building. Which shall I do first?'

"Each of these sixty or seventy agencies stands by itself. The governor has little control over them. The mere number of them is so great that no one can possibly keep track of their work.

"The chart shows no less than five different forms under which the services of the state are organized. Some are headed by single individuals (indicated by circles). Three are headed by paid boards—the tax commission, the board of control, and the railroad and warehouse commission. Others are in the hands of *ex-officio* boards, that is, of boards made up of executive officers already fully occupied with other duties. The governor, secretary of state, auditor, attorney-general, and treasurer are each members of so many boards they can hardly keep count of them. Still more common is the unpaid board, usually with a paid secretary. Finally, certain essentially state functions are performed by semi-private associations.

"This variety in the form of organization has no logical basis. There is no reason why the labor department should be under a single commissioner, while the highway department should be under a board. The variety tends to confuse the public and to destroy responsibility.

"In the third place, a study of the chart will show that most of the important executive work of the state at present is in the hands of boards—paid, *ex-officio*, or unpaid. Students in political science are all agreed that executive work should be done by individuals and not by boards. The average citizen has come to the same conclusion. The board system tends to delay and inefficiency. It dissipates responsibility. No one knows exactly who is to blame if work is done badly. Boards are necessary for sub-legislative and judicial work; they are useful to give advice; they are not suited to administrative tasks. Moreover, under the

board system the governor has little control over the administration. The board members usually have overlapping terms. Each governor appoints only a minority. Each board is a government by itself."<sup>83</sup>

The report of the Efficiency and Economy Committee in Illinois contains substantially the foregoing criticisms. One of the chief complaints entered against boards and commissions is the lack of correlation:

"Under the existing arrangements inefficiency and waste necessarily arise from the lack of correlation and coöperation in the work of different offices and institutions which are carrying out similar or closely related functions. There are separate boards for each of the State penitentiaries and reformatory and for each of the State normal schools. There are half a dozen boards dealing with agricultural interests; and about a score of separate labor agencies, including four boards dealing with mining problems and eight free employment offices, each substantially independent of each other. State finance administration is distributed between a number of elective and appointive officials and boards without concentrated responsibility. The supervision of corporations and of banks, insurance companies, and public utilities is exercised by a series of distinct departments. State control of public health is divided between various boards with no effective means of coördination. Nor is there any official authority for harmonizing the work of the numerous educational agencies."<sup>84</sup>

Overlapping functions are thus condemned:

"Even where there is no direct duplication of work, the present laws frequently give powers to several departments under which each employ agents for purposes which could be more efficiently and economically performed by one agent at the same time. Thus the inspectors of the State Board of Health, the State Food Commissioner, and the Chief Factory Inspector may each visit the same place for different purposes and perhaps give conflicting orders; while a single thorough inspection for all of these offices would be more effective and less expensive."<sup>85</sup>

Another criticism bearing especially on the work of boards and commissions is the irregularity of their reports:

"One source of confusion in the operation of the numerous State offices, boards, and commissions is the complete absence of uniformity or regularity as to their reports. Most officers are required to report to the Governor; but in several cases reports are made directly to the General

<sup>83</sup> *Preliminary Report, Minnesota Efficiency and Economy Commission*, pp. 16-17.

<sup>84</sup> *Report of the Illinois Efficiency and Economy Committee*, p. 19.

<sup>85</sup> *Ibid.*, p. 20.

Assembly, and in some cases no authority is specified. There seems to be no rule followed in requiring reports to be made annually or biennially or at other intervals. Reports are required to be made by some authority in every month in the year except April; and cover widely varying periods of time.

"The separate publication of reports for each minor office and the lack of central control over the printing of such reports adds much to the expense of printing, which now amounts to over \$500,000 for the biennium. A large proportion of this could be saved by a more concentrated organization and control over the official reports."<sup>86</sup>

Collaterally, the present organization of the executive—particularly the board and commission system as it exists—is responsible for the lack of a proper budget<sup>87</sup> and inadequate advice on legislation.<sup>88</sup>

The New Jersey Commission upon the Reorganization and Consolidation of Different Departments of the State Government decried in particular the tendency in that State "to organize a separate commission for each new phase of work."<sup>89</sup> This Commission summarized its findings as follows:

"As a rule the departments, boards, and officials in the service of the State render efficient service. It is not their fault that so many different State agencies exist and that those working along similar lines are entirely separate. Neither is it their fault that their powers are very limited and that they must confine their energies within certain lines. That is the fault of the system, and in view of the existence of such system, the excellence of the work of some of the departments, boards, and officials is most commendable. When we have suggested the necessity of reorganization along business lines and when we have pointed out the advantages of consolidations some of the officials have frankly agreed with us. Some few have openly condemned the system of which they are a part and some even stated that no business enterprise would survive under such procedure but would in a very short time be crushed by competitors who pursued up-to-date business methods."<sup>90</sup> And the State legislature was sufficiently convinced of the weight of the criticisms to set about reorganizing the executive branch of the government.

<sup>86</sup> *Report of the Illinois Efficiency and Economy Committee*, p. 22.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*, p. 23.

<sup>89</sup> See page 13 of the Second Report, contained in Governor Fielder's Message, 1914.

<sup>90</sup> *Ibid.*, p. 13.

Similarly the Iowa Committee on Retrenchment and Reform reports that "There is no plan of coördinate organization. Offices have been created and departments established without reference to what has been done before. There is diversity of authority and division of responsibility in all the branches and departments of government."<sup>91</sup>

In Nebraska the Legislative Procedure Committee implicitly criticised the board system there by recommending the "consolidation of State departments, institutions, boards, societies, commissions, and surveys," with a view to the "reduction of expense and the promotion of efficiency."<sup>92</sup>

In the 1915 Conference of Governors two criticisms of State boards were offered that may be regarded as typical of much that has been said in previous Conferences and Governors' Messages. According to Governor Alexander of Idaho, "Boards and commissions are often so constituted that they thwart the will of the executive and of the people. They are frequently created for the purpose of aiding some particular interest and not to serve the general welfare. They give some special organization an opportunity to participate in the administration of public affairs."<sup>93</sup>

And Governor W. S. Hammond, of Minnesota, reiterated the common complaint that "There is little or no coördination between these various bodies. Inspectors, examiners, investigators, and employees of these various governing bodies, busy in the performance of their duties, are traveling over the State, sometimes several of them descending at the same time upon a little hamlet of 200 or 300 inhabitants, where all examinations and investigations for all of the State departments could be done by an able-bodied man in half a day. Salaries and traveling expenses are continually increasing, while in political campaigns the cry for economy goes merrily on."<sup>94</sup>

To the criticisms by special committees of investigation and State Governors might be added the complaints lodged by political scientists; all of these critics are in substantial agreement that the present organization of executive boards and commissions scatters all responsibility, precludes responsiveness, is inefficient, and makes for extravagance.

<sup>91</sup> P. 7 of the Committee's *Recommendations to the Members of the Thirty-sixth General Assembly and the General Public*. See also reprint by F. E. Horack, from Iowa Applied History Series, entitled *Reorganization of State Government in Iowa*.

<sup>92</sup> Preliminary draft *Report of Joint Senate and House Committee*, section II D.

<sup>93</sup> *Philadelphia Record*, August 25, 1915.

<sup>94</sup> *Ibid.*, August 26, 1915.



*The Burden of Proof*

So completely and well founded is the arraignment of the State executive, by political scientists, Governors, and commissions, as irresponsible, non-responsive, inefficient, and uneconomical, that defenders of the status quo must show cause for continuing an organization which embodies the "political science of negation" at a time when greatly increased State business must be carried on, which provides traditional inhibitions of fear when the will of the State electorate, not of a George III, is to be executed, and which sets at naught both the experience of American business life and the principles of organization upon which the United States and the European executives are builded.

## CHAPTER III

### A PLAN OF EXECUTIVE REORGANIZATION

#### *Principles of Reconstruction*

It is our common experience that every business has a responsible head. There is someone to whom the stockholders, directly or through their governing board, say: "We want certain things done; we have chosen you to do them, and we shall look to you to see that they are done." Then after a reasonable time has passed they call their agent to an accounting: "You did this, or you did not do that." They continue his services if he does what they want, or get a new man if he does not.

We know also that no business man would accept this responsible position if he could not choose his assistants and hold them absolutely responsible for their work.

We know that stockholders could not have a day of reckoning with their business manager unless they could see and understand what was going on in the business.

And the manager could not keep check on the business as a whole unless the work were divided among a few departments, simple in form, and so coördinated as to avoid overlapping, repetition, or scattering of duties.

We know that the purposes of business and government are not identical; the motive back of the one is private gain, while the end of the other is public welfare. However, when we have determined what government work we want done, there is little reason for assuming that we do not want public officers to have such responsibility for doing that work effectively and economically as rests upon private employees.

To be in keeping with our common experience any reorganization of the State executive should be based on these principles:

1. That the executive department must be responsible to the people;
2. That the department can be made responsible to the people by making the head of the department, whom they have chosen, responsible for it; but this necessitates
3. That he be free from such interference as would becloud his responsibility;
4. That all the executive units, except probably the Auditor, be responsible to him;

5. That the work of the whole executive department be clearly visible and wholly understandable to the people and the chief executive; and to this end,

6. That the various executive units be simplified and coördinated,

(a) in case the work is distinctly executive, by providing departments at the head of which are single officials,

(b) in case the consultation and consideration of several persons is necessary, by providing boards.

The following sections show in detail what the State executive would be if reorganized on these principles.

#### *The Governor: Selection and Term*

The Governor would be chosen by the direct election of the people; no change would be made in the method of selecting him.<sup>1</sup> He would, however, be a more conspicuous issue for the people to decide. He would be chosen in part to secure certain legislation, but also because he could be entrusted with the responsibility and power of "seeing that the laws be faithfully executed."

The Governor's term of office would be four years; this period of service has already been decided upon in twenty-three States, and the trend is towards a four year tenure.<sup>2</sup> This term allows sufficient time for a Governor to carry into effect any legislative program he was selected to put into force; it also permits him to become familiar with his duties of office before being retired or obliged to turn his attention to the matter of reelection. A period of four years, however, is not so long that the Governor does not come before the people frequently to have judgment passed on his policies and acts. From the standpoint of responsiveness four years is a satisfactory term, while from that of responsibility and efficiency a two-year term, or any tenure less than four years, is open to serious objections.<sup>3</sup>

To make sure that the Governor would be a conspicuous State issue segregated from national issues, his election could be held at some time other than during a Presidential campaign year; his term need not be synchronous with that of the President.

<sup>1</sup> No one questions this first step towards securing a responsive, responsible Governor; see *Appraisal of the Constitution and Government of New York*, p. 29.

<sup>2</sup> See Chapter I, p. 5.

<sup>3</sup> Compare *Appraisal of the Constitution and Government of New York*, p. 100.

*The Governor's Eligibility to Succeed Himself*

The Governor would not be restricted as to the number of terms he might serve. In the early years of State government the people were afraid that the Governor would build up a despotic power like that of the royal governor of colonial days, and this traditional fear has carried over from colonial experience.<sup>4</sup> Under present conditions there is no reason why the people should be deprived of their power to continue in office any Governor who is responsive to their will, and upon whose administration they wish to set the seal of their approval.<sup>5</sup>

*Method of Removing the Governor*

Whether adherence to the established method of removing the Governor, namely by impeachment, would give to the people the necessary control over the Governor is perhaps an open question. Certainly an easier method of impeachment, and probably the recall should be provided.<sup>6</sup> Certainly the Governor must feel his responsibility to the people for the work of the executive department; that is a first principle upon which the reorganization of the State executive is based.

<sup>4</sup> In several of the States ineligibility clauses still attach to the Governor's position; see Chapter I, pp. 5-7 and Chapter III, p. 79.

<sup>5</sup> The absence of a constitutional restriction as to the number of terms a Governor should hold office would not prevent the possible growth in any State of a *customary* two term limit such as now obtains in the case of the Presidency.

<sup>6</sup> Political scientists are not in agreement as to the efficacy and desirability of the recall; some of them are still clamorous for it; others assert that it would be a good club to hold over official heads, although it would rarely be used; while a third group is absolutely opposed to the device. Governors generally are opposed to the recall. The special committees of investigation did not take up the matter; they avoided recommendations requiring constitutional amendments. The New York *Appraisal* advocated a recall like that under the English parliamentary system (p. 78) but condemned as a palliative the recall in vogue in some of the States (pp. 82, 83). Reasoning from our experience with the Presidency we might consider the recall unnecessary. No one suggests recalling the national chief executive. He is selected as a conspicuous issue; he has a high sense of responsibility; and while for the most part he appoints men of his own party to executive offices, yet he is conscious that on the record of his administration he, and his party in large measure, will stand or fall. Only if his work meets with popular approval is he returned to office. During his term of office malfeasance has been virtually unknown. The Presidency regularly offers an instance of a big power, a big responsibility, a big man. There is reason to think that the case of the Governor, under the proposed plan of executive reorganization, would be analogous. Still, if the people wanted to feel sure that they could at all times absolutely control the Governor, they should include the recall; their decision would be in harmony with constitutional amendments in ten States providing the recall.

*The Governor's Powers*

The Governor would retain the legislative, judicial, military, and general executive powers already granted him. His executive powers, however, would be enlarged to include those "inherently executive powers" of appointment, removal, control and direction. —

Underlying the new grant of appointing power is the broad distinction between executive and administrative officers.<sup>7</sup> Only the Governor and Lieutenant-Governor (if the second office be continued) are actually or potentially policy-formulating officers; they alone would be elected.<sup>8</sup> The other executive or "administrative" officers are concerned with administering or enforcing laws rather than with making new laws; they would be appointed. Their responsibility extends directly to the Governor as head of the executive department and through him to the people.

The Governor's appointing power would be exercised in the following manner:

1. Department heads would be appointed directly by him;
2. Departmental positions not under civil service (such as chiefs of division and bureau chiefs) would be filled by the department heads, but the Governor would have the power to veto any such appointment;
3. Civil service positions would be filled by the Governor (or more probably by department heads and chiefs of divisions and bureaus) under the civil service code;<sup>9</sup>
4. Board members would be appointed by the Governor directly.

The advice and consent of the Senate would not be necessary to the Governor's appointments.<sup>10</sup> The Governor is to be responsible for his

<sup>7</sup> Chapter I, pp. 2-4.

<sup>8</sup> The Auditor would also probably be elected; see chapter III, p. 61. Local officers would be elected as now; see chapter III, p. 69.

<sup>9</sup> The "merit system" enables a Governor to sift the qualifications of candidates for administrative positions; it relieves him of the burden of the detail of selection and leaves him free to plan and execute policies. The civil service would not be curtailed under the proposed plan of executive organization, rather extended by the application of sound principles of employment management. See in this connection article by H. S. Gilbertson, *A Practical Guide to Responsible Government*, and an article by Henry Moskowitz, *Old and New Problems of Civil Service*; both in *Annals American Academy*, March 1916, pp. 227 and 153 respectively.

<sup>10</sup> *Report of the Minnesota Efficiency and Economy Commission* recommends the Senate's ratification of appointments, but this and the other reports urge no constitutional changes. Blue (*The Governor and Executive Organization*, p. 45) says that the provision "may well be necessary." Governor Hoffman (*Message*, 1871, p. 71), who early called attention to the problem of executive organization, took the opposite view.

department; he must have power to make sure of an efficient corps of assistants. Under the confirmation clause, any man the Governor may propose for executing a trust must be satisfactory to the powers that control the Senate. This violates the principle that the Governor be free from such interference as beclouds his responsibility. He would choose his own aids. More important, he must not be hampered by any confirming clause when he wishes to remove his subordinates. Senate confirmation of appointments is an actual bar to the Governor's exercising a legally conferred power of removal.<sup>11</sup> He must not have his responsibility to the people beclouded by the interference of a coördinate department or of an "invisible government."<sup>12</sup>

The responsibility of the different executive units to the Governor can be insured only through giving him the power of removal. He must be able to say to the men he has chosen to help him, "if you will not work with me, but 'loaf on the job' or pull at cross purposes,—if you will not or cannot do the work, I'll get someone else who will coöperate." The Governor would exercise this power of removal in the following manner:

1. Department heads he would remove at pleasure;
2. Civil service employees he would remove for cause after hearing;<sup>13</sup>
3. Departmental employees not under civil service regulations would be removed by the Governor directly, or by the Governor on recommendation of the department head;

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Professor Young (*The New American Government and its Work*, p. 318) shows the real effect of senate confirmation. See also H. S. Gilbertson's article, A Practical Guide to Responsible Government, *Annals American Academy*, March 1916, p. 227, for the effect of the confirming clause.

<sup>11</sup> See Chapter I, pp. 8-11.

<sup>12</sup> The Senate, incidentally would not suffer by losing the power of confirmation. The change would make instead for a more conspicuous responsibility of the executive and the legislative. If the constitutional provision that the powers of one department shall not be exercised by either of the others can have even the most general meaning, the legislature should concentrate on law-making, on questions of State policy; that will be a sufficient responsibility.

<sup>13</sup> The work of these employees is of a clerical, technical; professional character; they form a corps of permanent, trained officials who will do their work better or worse according to the standards of the "merit system" of their State rather than according to the politics of the transients who fill the Governor's chair. They should not be affected by "politics," hence not removable at pleasure, but only for cause defined in the civil service code. Still they must be responsible to the head of the executive department, who is responsible to the people for their work; their "permanency" must not mean that they are absolutely unremovable. See in this connection an article by Henry Moskowitz, Old and New Problems of Civil Service, in the *Annals American Academy*, March 1916, p. 153.

4. Board members would be removed by the Governor for cause after due notice and hearing;

5. Local officers charged with enforcing State laws would be removed by the Governor for cause after due notice and hearing.

The extent of the Governor's ordinance power, or for that matter the ordinance power of any executive unit, would depend upon the development of new legislative practice rather than executive reorganization. When legislatures give over their habit of specifying in the general laws that lamp-posts shall be set twenty feet apart, or other equally exact details, and confine themselves to laying down a general policy in the law, the proper executive officers will be empowered at the same time to use their discretion in carrying out the intent of the law in matters of detail. Custom and necessity alone will bring any such change as this, not legal enactment.

#### *The Lieutenant-Governor and Succession to the Governor's Office*

In the thirty-five States that have a Lieutenant-Governor he usually acts as president of the Senate while waiting for the Governor to "die."<sup>14</sup> A better arrangement would be to let the upper house select one of its own members as presiding officer. That position should be filled by the majority leader in the Senate and not by an outsider. With the abolition of this duty the Lieutenant-Governor would have little or nothing to do. His job would be a needless expense, for the Secretary of the Commonwealth and other cabinet officers could succeed to the Governor's position just as the cabinet officers of the national executive would follow the Vice-President to the President's chair. The Governor's successor would have been chosen by the Governor and would carry on his policies during the period elapsing between the Governor's death and the next meeting of the legislature.<sup>15</sup> At longest this would be two years, since most of the States have annual or biennial legislative sessions. The legislature, when it assembled, would order an election and the "people's choice" would promptly be inducted into office.

Thirteen States now have no Lieutenant-Governor,<sup>16</sup> and there is reason for abolishing the office. But if the position is continued, the incumbent should be elected.<sup>17</sup> He should correctly reflect public opinion as to matters of State policy if he becomes Governor.

<sup>14</sup> In 34 States. J. Q. Dealey; *American State Constitutions*, p. 164.

<sup>15</sup> In case the Governor was recalled, the law would provide for the method of electing his successor.

<sup>16</sup> Chapter I, p. 1, footnote.

<sup>17</sup> Cf. Beard; *American Government and Politics*, p. 483.

### *The Auditor*

The Auditor, whatever title he may bear, is generally considered a checking officer; his function is to verify the legality of transactions, to review vouchers and accounts, to prevent the "consummation of transactions that would lead to the subversion of public funds."<sup>18</sup> In all States but New Jersey and Tennessee the Auditor is elected by the people.<sup>19</sup> It is generally considered that his responsibility extends directly to the people and that he should have complete freedom from executive control.

Three possibilities offer in case the Auditor is elected:

(1) That he might be elected by the same party as the Governor and work "hand in glove" with him;

(2) That regardless of party he would act as a checking officer in the manner above indicated;

(3) That the Auditor (probably having different party affiliations) would be antagonistic to the Governor and seek merely to embarrass the chief executive by hampering all executive expenditures on ultra-technical grounds.

Data have not been compiled to show whether a State Auditor actually prevents corruption. We do know that he frequently turns over his official duties to a \$1,500 subordinate; the Auditor spends *his* time "conserving" the political interests of his party. In the absence of actual data, and in view of the recommendations of investigating commissions, it may be expedient to have the Auditor elected. He would hold office for the same term as the Governor, but would not be removable by the chief executive.

### *The New Executive Departments*

In the "first principles" of executive reorganization the proposition was laid down that the work of the whole executive department should be clearly visible and wholly understandable to the people and the Governor, and to this end the various executive units should be simplified and coördinated. This does not mean, however, that a single, uniform plan for these new departments can be drawn dogmatically for all of the States. Allowance must be made for variations in the work done by

<sup>18</sup> See *Appraisal of the Constitution and Government of New York*; pp. 84-88 and 106.

<sup>19</sup> *Report of the Illinois Efficiency and Economy Committee*; p. 148. This report also indicates the nature of the Auditor's work and points out that he should be independent of the executive. Though the Auditor is regularly elected, no State puts his position on the basis of judicial tenure, as is the case in England and some of the countries of continental Europe.



different State governments. In short, any plan of departmental organization, if it is to be more than idealistic, must be based on the existing authorities, and their powers and duties, in the State considering a reorganization of its executive department.<sup>20</sup> Even the plans of reorganization in the States where the question of executive reorganization has been carefully worked over, are suggestive rather than final for other States.

The Illinois Efficiency and Economy Committee proposed ten principal departments: finance, charities and corrections, education, public works and buildings, agriculture, public health, labor and mining, trade and commerce, law,<sup>21</sup> military affairs.<sup>22</sup> They are shown in the following chart.<sup>23</sup>

Very recently the following unofficial proposals have come from Illinois. These may be regarded as alternates for the departmental plan contained in the Illinois Efficiency and Economy Committee report.<sup>24</sup>

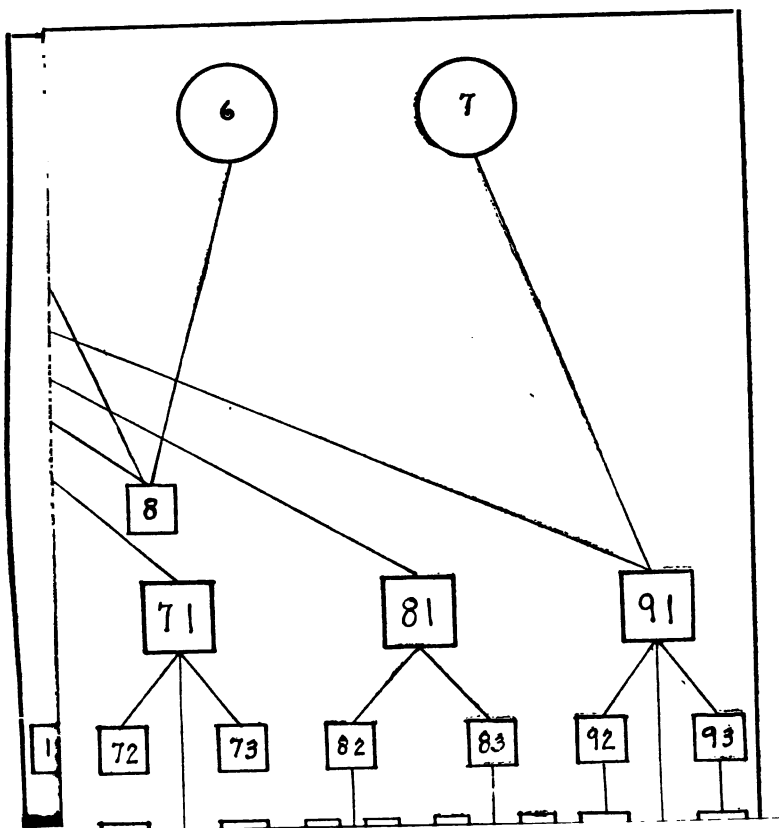
<sup>20</sup> This was a guiding principle in planning a reorganization of the Illinois executive (see *Report of the Illinois Efficiency and Economy Committee*, pp. 30-32). Similarly the Minnesota and New York reports had a careful regard for existing authorities.

<sup>21</sup> The advisability of having a department of law (or perhaps of *justice*) is clear. It is certain, however, that the head of the department, the Attorney-General, should not be elected as under the Illinois and New York plans. He is first the legal adviser of the Governor and of the department for which the Governor is responsible to the people. The Governor should have the privilege of selecting his own lawyer,—why should the people choose him as if he were their legal adviser? Moreover, if the Attorney-General is appointed, he will be in harmony with the administration policy and will not give adverse opinions as to the legality of "administration measures" merely to block the proposed laws. The assumption by the legislature will be that the measures are valid, rather than that it is useless to bother with laws already declared unconstitutional. The second class of duties belonging to a department of law has to do with the prosecution of cases against law breakers, through direct proceedings, or indirectly through local attorneys and sheriffs. It is clear that the head of the legal department will feel his responsibility more keenly if subject to the control of the chief executive who is charged with taking care that the laws are enforced. If the Governor is to have this responsibility to the people he must be able to select and control the chief law-enforcing agent, who in turn must have some control over local officers charged with apprehending and prosecuting malefactors. Only then can the people reasonably look to the Governor to avoid such cases as the Leo Frank affair.

<sup>22</sup> For details see *Report of the Illinois Efficiency and Economy Committee*, pp. 28-30.

<sup>23</sup> For comparison with the present organization see chart Chapter I, see Insert following p. 22.

<sup>24</sup> These alternates have been devised by Professor John A. Fairlie and a group of men with whom he has been working. Professor Fairlie very kindly permitted the publication of the proposals in this survey.





## I

"The Governor shall organize the executive services and State institutions into not more than twelve executive departments; and shall place new executive services and institutions as created within one of such departments; and he shall have power from time to time to reorganize such departments or to transfer any executive service or institution from one department to another. He shall appoint a head for each department, who shall have supervision over the services and institutions in such department, and such other powers and duties as may be provided by law.

"Members of the General Assembly and State officers shall be eligible to appointment as heads of these executive departments without vacating the office previously held, and shall be entitled to seats in either house. Until otherwise provided by law, they shall each receive a salary of \$5,000 per year.

"Until otherwise provided by law, the Governor shall appoint a Secretary of State, State Treasurer, Auditor of Public Accounts, Attorney-General and Superintendent of Public Instruction."

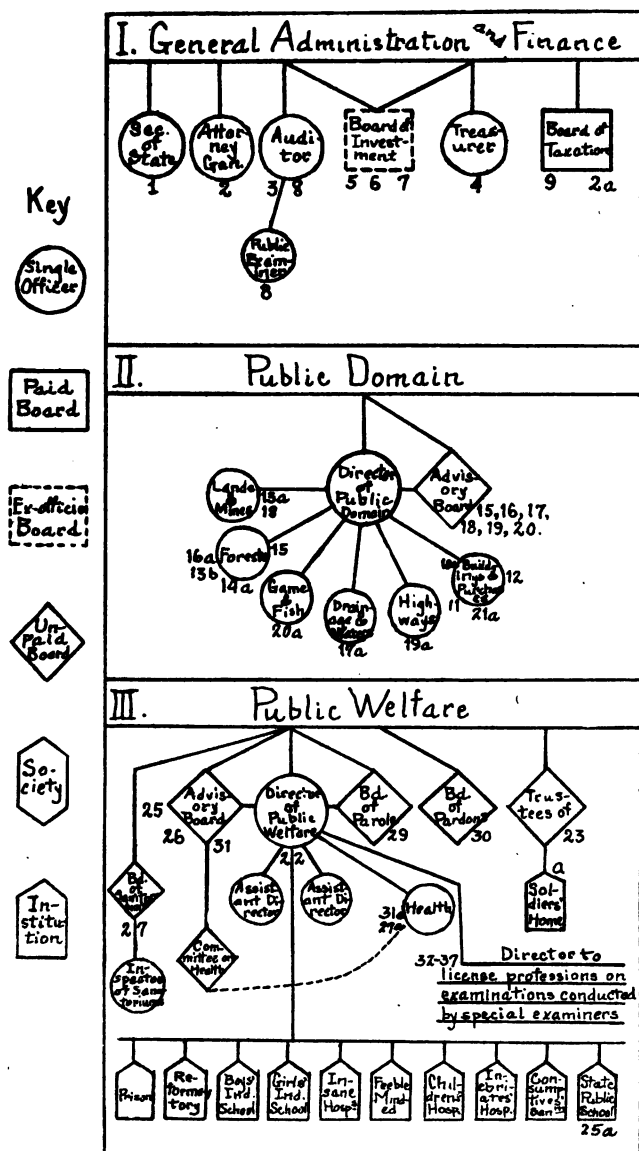
## II

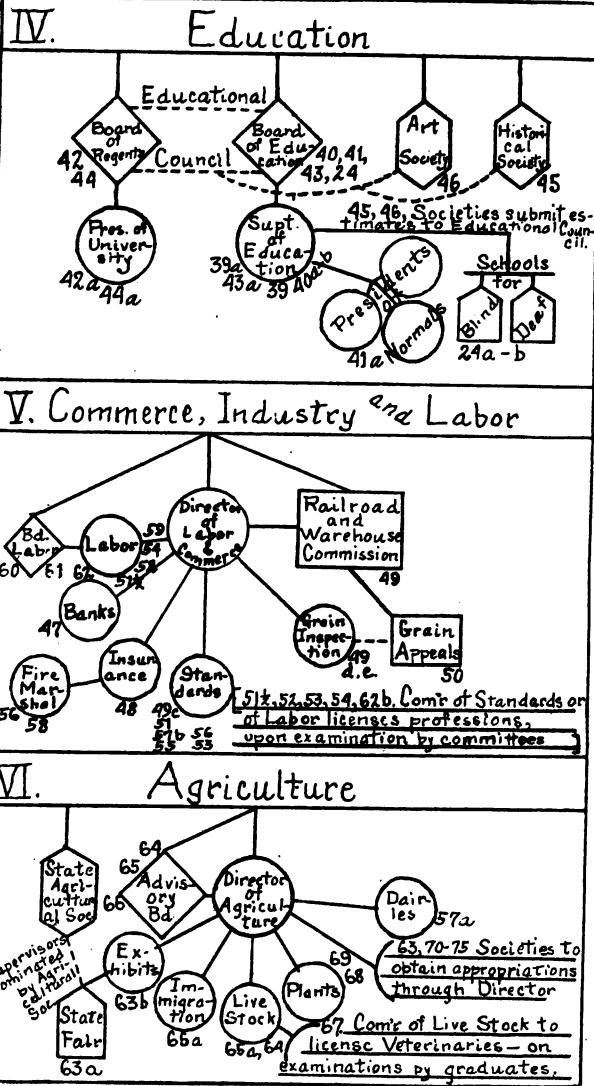
"The General Assembly shall provide by law for the establishment of the following executive departments: finance, education, charities and corrections, public works and buildings, agriculture, labor, health, trade and commerce, law, militia, and state. Other executive departments may be established by a two-thirds vote of all the members elected to each house. All the executive and administrative services of the State shall be organized in one of such executive departments."

The first plan is especially interesting as it provides for a parliamentary system, and gives a far more elastic executive organization than that set forth in the Report of the Illinois Efficiency and Economy Committee.

The Minnesota plan of executive reorganization provided six departments: general administration and finance; public domain; public welfare; education; commerce, industry and labor; agriculture.<sup>25</sup> These are shown in the chart on the following pages:

<sup>25</sup> See pp. 2-4 of the final *report of the Efficiency and Economy Commission*. For a comparison with the present organization see charts, Chapter I, pp. 48 and 49.







ENDATIONS

Classification	Minor Clerks, Guards, Matrons or Helpers.	Total Salaries	Total Expenses	Total Cost to Oct 31 1913	Economies Estimated in Recommen- dations by the Economy and Efficiency Commission	
5	13	\$83,660.00	\$40,740.55	\$124,400.55	G.....	\$34,224.00
1		**9,360.00	30,016.18	39,376.18		
1		2,400.00	953.08	3,353.08	.....	3,800.00
		10,346.00	7,741.12	18,087.12		
		2,550.00	399.99	2,949.99		
		3,900.00	453.75	4,353.75		
3	6	38,720.00	5,816.65	44,536.65	.....	405.00
1		23,900.00	2,150.17	26,050.17		
1		19,220.00	5,979.15	25,199.15	.....	28,823.50
1		11,420.00	13,873.41	25,293.41		
1		11,520.00	4,153.14	15,673.14		
1	2	12,420.00	10,840.58	23,260.58		
1		2,906.75	18,723.09	21,629.84		
		14,400.00	2,600.00	17,000.00		
1	6	12,820.00 *F	79,506.54	92,326.54	.....	10,800.00
		2,917.49	9,455.31	12,372.80		
		4,300.00	1,095.73	5,395.73		
		31.35		31.35		
		1,350.00	704.94	2,054.94	.....	22,663.59
	90	119,131.52				
		3,240.00	158,365.58	280,737.10		
			19,663.59	19,663.59	**.....	6,000.00
9	1	82,950.00	10,978.98	93,928.98		
26	118	\$473,463.11	\$424,211.53	\$897,674.64	Total economy	\$146,811.09

e be designated as Clerk, Secretary, Surveyor and owner of rented office.  
t of Charities and Corrections.  
contract (possibly \$70,000) is included in this total.  
0,000 from addition of Tuberculosis Commission to Health Department, although not included in the  
epartment nor in the total through various consolidations.

worked out by the Civil Service Commission. The classification should not be so rigid that





ILLINOIS	MINNESOTA	NEW YORK
		Finance
		Accounts
Finance	General Administration and Finance	Treasury
		Taxation
		Civil Service
		State
		Conservation
Education	Education	Education
Public Works and Buildings	Public Domain	Public Works
Agriculture	Agriculture	Agriculture
Charities and Corrections	Public Welfare	Health
Public Health		Charities and Corrections
Labor and Mining		Labor and Industry
Trade and Commerce	Commerce, Industry and Labor	Banking
		Insurance
		Public Utilities
Law		Law
Military Affairs		

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tive the department should have at its head a single official; but if the work were largely quasi-legislative or quasi-judicial, if the consultation and consideration of several persons were necessary, the department should be headed by a board or commission. This principle was kept in mind by the Illinois Efficiency and Economy Committee, the Minnesota Economy and Efficiency Commission, and the New York Constitu-

tional Convention. Thus the proposed New York Constitution<sup>29</sup> put single officials at the head of the departments of law, finance, accounts, treasury, state, health, public works, agriculture, charities and corrections, banking, and insurance. At the head of the departments of taxation, education, public utilities, conservation, civil service, and labor and industry,<sup>30</sup> on the other hand, boards or commissions were provided.

The Illinois departmental organization was more complex.<sup>31</sup> The department of finance, was to be under a State finance commission composed of the Comptroller, tax commissioner, and revenue commissioner, with the Auditor and Treasurer *ex-officio* members. Each of these officials was to be in charge of a particular division. The department of charities and corrections was to include the present board of administration for charitable institutions, a board of prison administration, and the charities commission with powers of inspection and recommendation over both charitable and correctional institutions. The department of education was to be under the control of a State board of education and was to include a Superintendent of Public Instruction, a normal school board, a board of trustees for the University of Illinois, the State library, and a commission on natural resources. The department of public works was to be under a public works commission of three members. The department of agriculture was to have at its head a secretary of agriculture. The department of public health was to be put under a paid health commissioner and an unpaid board of health. A commissioner of labor was to be at the head of the department of labor and mining. The department of law was to be under the control of the Attorney-General. The department of trade and commerce was to include a commissioner of corporations, of banking, an insurance superintendent, and a public utilities commission, whose president was to act as head of the department.

The Minnesota plan<sup>32</sup> put the four departments of public domain, public welfare, commerce, industry and labor, and agriculture under single directors. The department of general administration and finance was to be made up of the Secretary, Attorney-General, Auditor, board of investment, Treasurer, and board of taxation. Since no constitutional changes were proposed, the "State officers" in the department retained

<sup>29</sup> *Record of the New York Constitutional Convention*, 1915 (Unrevised) IV, pp. 4328-30.

<sup>30</sup> Optional with the legislature whether an industrial commission or a single officer.

<sup>31</sup> See chart or reorganization, Chapter III, p. 62.

<sup>32</sup> See chart of *Minnesota Plan* printed herein, Chapter III, p. 63.

their complete independence. The department of education was to include a board of regents for the University, a board of education with a superintendent of education, an art society, and historical society.

The New York and Minnesota organizations provided more single-headed departments, but the board form was retained in several departments. The Illinois plan put most of the departments under boards.<sup>33</sup> The Minnesota plan provided that distinctly executive work in four departments should be carried on by single officers but that they should have advisory boards to assist them.<sup>34</sup> While it appears from these three plans that the results of applying the same principles would yield different results in different States, this much is clear, that the executive units would be reduced to the two type forms or a combination thereof, and that in any department they would be closely coördinated.

A plan of executive reorganization would of necessity vary for different states in the matter of number of departments and form of departmental organization, but the basic idea of simple, coördinated, visible executive machinery would find clear expression.

#### *The Governor's Cabinet*

The "vice-governors" or heads of the several executive departments would form a Governor's council or cabinet, just as the department chiefs of the national executive make up the President's cabinet.<sup>35</sup> Since the proposed plan of reorganization makes the Governor responsible for the work of the entire executive department, he is entitled to receive the information and advice of his aids as to questions pertaining to any and all departments. Conferences are not only more effective than occasional formal reports in keeping the Governor informed as to the condition of the executive, but they allow a free interchange of opinion

<sup>33</sup> The *Report of the Illinois Efficiency and Economy Committee*, p. 31, points out that some uniform plan such as characterizes the French system of administration might be advisable in organizing an entirely new system, but some variation "seems better suited to existing services and present conditions."

<sup>34</sup> This is the "staff and line" type of organization. It is doubtful whether putting all departments under single officials would be satisfactory; boards will always have their functions. But the "staff and line" organization offers a happy combination of the plans for a single officer for distinctly executive work and a board for quasi-judicial and quasi-legislative work. The boards would be an auxiliary of the executive department and in all cases, as under the proposed plans of reorganization, would be small enough to avoid the criticisms that boards are of such unwieldy size as to make them inefficient, irresponsible, and uneconomical.

<sup>35</sup> In case the head of the department were a "board" the chairman of the board would be a member of the Cabinet.

helpful to the department heads and the Governor. Group meetings make it possible for the directors of the several departments to understand the problems of other departments and for each to view his work in relation to the executive as a whole. It is most important that the State executive follow a well considered policy; the separate departments must not act as distinct and independent units, or pull at cross purposes with the Governor or one another. The cabinet plan makes for a harmonious executive family.

The Governor would not be bound by the ideas of his council any more than the President is controlled by the majority opinion of his cabinet. But once a policy was determined, whether by the Governor and cabinet, or by the Governor alone after discussion in cabinet meeting, the decision would be binding on the whole executive; department heads would be responsible to the Governor for their coöperation in carrying out the policy.

#### *The Governor's Bureau of Investigation*

In addition to the cabinet of department heads, the Governor would have a bureau of investigation to aid him in his work. This bureau would be detached from the rest of the executive and would be composed of an expert and professional personnel. The Governor would refer to it the duty of inspecting the work of the executive department and would base his plans, in part at least, on the data contained in its reports. To it he could refer any executive question for investigation and report. It could be relied upon also to prepare or review the executive budget or any other measures to go before the legislature.<sup>36</sup>

The cabinet, in terms of business organization, is made up of "line officers"; this inspection or investigation bureau would be composed of the Governor's "staff advisers." "Without 'staff' or 'line' advisers the Governor is required to act upon independent requests of all administrative heads and groups as an observer from a far-off mountain-top, or if he is visited by someone who asks for his official sanction, he must decide or refuse without having the matter considered and discussed by the various other officers whose interests may be affected."<sup>37</sup>

Notwithstanding the formidable term "staff advisers," there is nothing startlingly new about an investigating bureau which would include inspectors, economy and efficiency experts, and a budget commissioner. None of these men would have power to impose or enforce policies; they would merely investigate and report to their chief—the Governor.

<sup>36</sup> See also the *Appraisal of the Constitution and Government of New York*, p. 94.

<sup>37</sup> *Ibid.*, p. 97.

The importance of this bureau is clear when one realizes both the impossibility of the Governor's personally collecting data upon which to base his judgments and the necessity of his being in possession of this information. //

### *Terms of Appointed Executive Officers*

Under the proposed plan of executive reorganization officers would hold office for the following terms:

1. Department heads for four years, beginning at the time of the Governor's term;
2. Civil service employees for the period determined by the civil service code;
3. Chiefs of division and other employees not under the merit system, for four years beginning at the time of the Governor's inauguration;
4. Board and commission members for terms governed by the nature of their work.<sup>38</sup>

### *Local Officers and the Reorganized Executive*

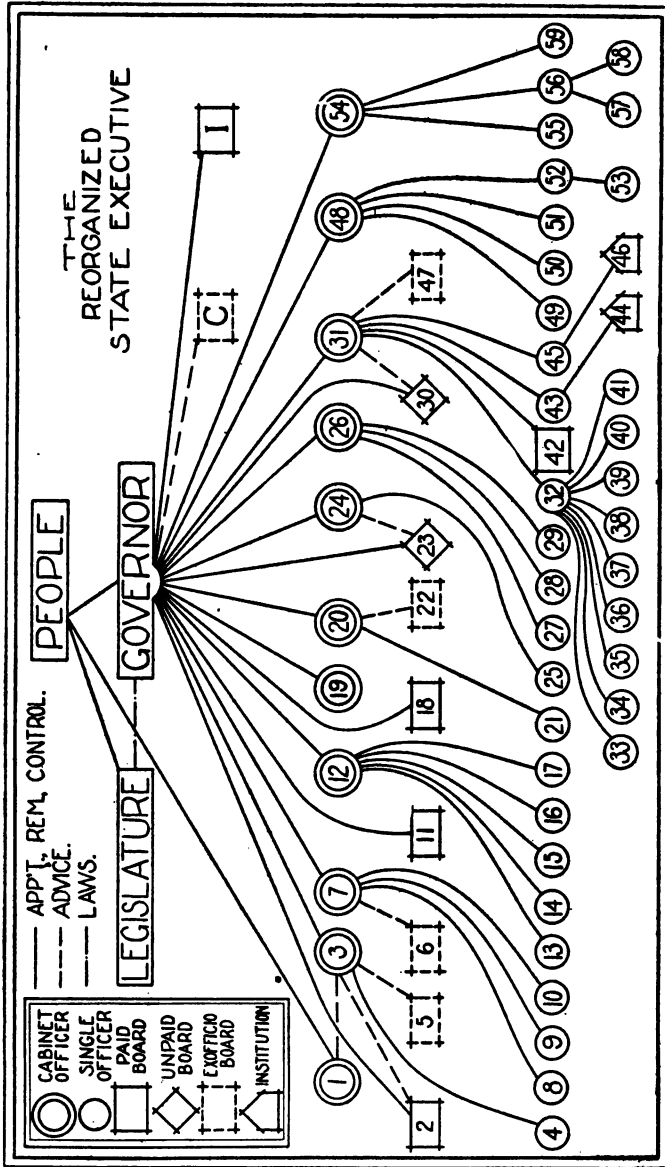
Local officers charged with the double duty of attending to local affairs and enforcing State law would be unaffected by the proposed plan of executive reorganization, except that the Governor would have the power to remove them for cause after due notice and hearing. Cause would have to do with their refusal or failure to execute the law of the State within their jurisdictions. This removal power vested in the chief executive would enable him to hold local officers responsible.

Simplification of the machinery of local government would of course bring about clearer relationships and responsibilities of local officers, both for State and local duties.<sup>39</sup> But this is beyond the scope of the plan of executive reorganization herein detailed.

<sup>38</sup> In certain cases, such as the civil service and public utilities commissions, it is urged that four years is too short a term. Freedom from "politics," familiarity with the work of the commission, continuity of policy summarize the reasons advanced. If the term of any board were in excess of the Governor's term, arrangement could be made for the Governor to appoint one or more members; for example, if the board were composed of seven men holding office for seven years, their terms could be so arranged that one place would be vacated each year. His power of removal would insure the board's responsibility to him for its effective work.

"Advisory" boards, concerned with questions of the administration's policy, would have terms synchronous with that of the Governor. In fact, unless good reason offered for having the term of board members longer than four years, it would begin and end with that of the Governor.

<sup>39</sup> Compare article by H. S. Gilbertson in the *Annals American Academy*, March 1916, p. 116, entitled "Movement for Responsible County Government."



*Key to Chart of the Reorganized State Executive*

- 1 STATE AUDITOR
- 2 *State Tax Commission*
- 3 STATE TREASURER
  - 4 Chief of Division of Accounts
- 5 *Revenue and Finance Board*<sup>1</sup>
- 6 *Board of Standardization*<sup>2</sup>
- 7 SECRETARY OF STATE
  - 8 Chief of Publicity Division
  - 9 Chief of Division of Printing
  - 10 State Archivist
- 11 *State Civil Service Commission*
- 12 DIRECTOR OF DEPARTMENT OF PUBLIC WORKS
  - 13 Chief of Division of Buildings and Grounds
  - 14 Chief of Highways Division
  - 15 Chief of Conservation Division
  - 16 Chief of Division of Navigation and Water Supply
  - 17 Chief of Purchases and Supplies Division (Central Purchasing Agent)
- 18 *State Public Service Commission*
- 19 ATTORNEY-GENERAL (LEGAL DEPARTMENT)
- 20 ADJUTANT-GENERAL (STATE DEPARTMENT OF MILITARY AFFAIRS)
  - 21 Chief of State Police
- 22 *State Military Board*<sup>3</sup>
- 23 *State Board of Education*<sup>4</sup>
- 24 SUPERINTENDENT OF PUBLIC INSTRUCTION
  - 25 State Librarian
- 26 DIRECTOR OF DEPARTMENT OF AGRICULTURE
  - 27 Chief of Division of Chemistry
  - 28 Chief of Division of Economic Zoology (Animal Husbandry)
  - 29 Chief of Division of Economic Botany (Plants)
- 30 *Advisory Board to Director of Department of Public Welfare*
- 31 DIRECTOR OF DEPARTMENT OF PUBLIC WELFARE
  - 32 Chief of Division of Health

<sup>1</sup> To be composed of the Governor, Treasurer, and Secretary of State.

<sup>2</sup> To standardize statistics of Departments of Labor, Commerce and Industry, and Health. To be composed of the Secretary of State and directors of the named departments.

<sup>3</sup> To be composed of the Governor, Adjutant-General, State Treasurer, and possibly the Attorney-General.

<sup>4</sup> The term *advice*, used in the key to the chart, should be interpreted to include, as in the case of this State Board of Education, certain ordinance powers. These advisory boards would have the quasi-legislative and quasi-judicial powers incident to their work. The director would be advised by them, but he would alone have *executive* control and responsibility.



- 33 Central Office for Examining Boards<sup>6</sup>
- 34 Chief of Dairy and Food Bureau
- 35 Chief of Bureau of Live Stock
- 36 Chief of Bureau of Medical Inspection
- 37 Chief of State Health Laboratories
- 38 Chief of Bureau of Vital Statistics
- 39 Chief of Bureau of Sanitary Engineering
- 40 Chief of Bureau of State Dispensaries and Sanatoria
- 41 Chief of Housing Bureau
- 42 State Board of Moving Picture Censors
- 43 Chief of Division of Charities
- 44 Charitable Institutions
- 45 Chief of Division of Corrections
- 46 Prisons and Reformatories
- 47 *State Board of Pardons*<sup>6</sup>
- 48 DIRECTOR OF DEPARTMENT OF COMMERCE AND LABOR
  - 49 Chief of Division of Standards
  - 50 Chief of Division of Banking
  - 51 Chief of Division of Statistics
  - 52 Chief of Division of Insurance
  - 53 Fire Marshall
- 54 DIRECTOR OF DEPARTMENT OF LABOR<sup>7</sup>
  - 55 Chief of Division of Statistics
  - 56 Chief of Division of Inspection
  - 57 Chief of Mine Inspection Bureau
  - 58 Chief of Factory Inspection Bureau
  - 59 Chief of Employment Bureau
- "C" Governor's Cabinet
- "I" Governor's Bureau of Investigation

#### *Chart of the Plan of Executive Reorganization*

The preceding chart and key shows something of the *general appearance* of the State executive after such a reorganization as has been described. It is based in large measure on a study of the Pennsylvania executive, and like the plans of reorganization detailed by the several efficiency and economy commissions it is suggestive rather than final in every detail for every State. Nor is it to be regarded as a *model*; models are apt to exclude actuality and expediency.

<sup>6</sup> A clearing house for boards examining nurses, dentists, pharmacists, etc.

<sup>6</sup> To be composed of the Governor, Attorney-General, and Director Public Welfare.

<sup>7</sup> A State Board of Labor, although not shown in the chart, might very properly be provided. It would make ordinances and have quasi-judicial functions. It would advise the Director, who, however, would have complete control over all distinctly executive work.

*The Demand for Executive Reorganization*

The demand for a reorganization of the State executive has been just about coextensive with the criticisms of the present organization.<sup>40</sup> Political scientists, Governors, and special commissions of investigation have either coupled their criticisms with a specific demand for reorganization, or they have implied that demand in their criticisms, hoping that the problem itself would arouse popular action. There are indications that the reorganization movement now "is so well under way that we may look for large practical results within the next decade."<sup>41</sup> These signs are clearly summarized in the following quotation: "(1) the widespread discussion of the subject among students of government and politics<sup>42</sup> whose views will powerfully affect public opinion within the next two or three decades; (2) the appointment of commissions in the several States to study and report on the subject;<sup>43</sup> (3) the recent messages of a number of Governors in favor of somewhat radical alterations in the fundamental structures of State government;<sup>44</sup> (4) the advocacy of simplification and centralization by many leaders in the movement for direct government who do not find the last word on politics in the initiative, referendum, and recall; and (5) the conclusion of advocates of efficiency and economy that mere bookkeeping systems do not produce real results but that such results are to be obtained only through a scientific budget, a cabinet system, and open executive leadership held accountable to the electorate.<sup>45</sup> When we find Mr. Taft advocating before the New York Constitutional Convention something perilously approaching the device which is ardently supported by Mr. U'Ren and his friends in Oregon,<sup>46</sup> we may reasonably suspect the existence of a strong public sentiment in favor of the change in question, and may look forward to practical action in the near future."<sup>47</sup>

<sup>40</sup> For the range of criticisms see chapter II, pp. 33-37.

<sup>41</sup> Charles A. Beard; Appendix to *The New Republic*, August 21, 1915.

<sup>42</sup> See Beard's sketch of these discussions; *ibid.*, pp. 2-3.

<sup>43</sup> See Chapter II, pp. 35-37.

<sup>44</sup> See Chapter II, pp. 33-35.

<sup>45</sup> This applies especially to the New York Bureau of Municipal Research *Appraisal*.

<sup>46</sup> Reference to the actual reorganizing amendments submitted to the voters of Oregon in 1912 and 1914 by the Peoples Power League. For a brief summary of the 1912 Oregon proposals see pp. 43-44 of publication by F. E. Horack entitled *Reorganization of State Government in Iowa*.

<sup>47</sup> Appendix to *The New Republic*, August 21, 1915, p. 2.

Although Mr. Croly's statement in 1912,<sup>48</sup> that the demand for a reorganization of the State executive was already popular, may be taken as a trifle premature,<sup>49</sup> the signs of that demand have since then been appearing with cumulative rapidity.

### *The Key to the Plan of Reorganization*

The plan of executive reorganization herein outlined is in no sense original. It is taken from the plan of the national executive. And it is noteworthy that the critics of the State executive have not only agreed on the "first principles" of executive reorganization, but in nearly every instance they have used as a model the national executive.<sup>50</sup> State adoption of this tested plan of executive organization would involve no wrenching apart of the general frame of government by the insertion of a foreign innovation, yet it would avoid the defects of the present executive, and would embody the first principles of reconstruction agreed upon by the critics.

### *Objections to the Plan*

Notwithstanding general knowledge of and satisfaction with our national executive, proposals of a like plan for the States have aroused some opposition. The conspicuous case in point is that of the rejected New York constitution. Perhaps no absolutely correct estimate of that situation is possible, but the following facts stand out clearly. 1915 was not a propitious year for any sort of constitutional amendment. Whatever the cause—the nearness of the presidential contest, the unsettled economic and political conditions due to the war—the fact is that people were in no frame of mind to adopt new proposals. More than three-fourths of the constitutional amendments voted on in the different States during the year were flatly rejected;<sup>51</sup> the unwillingness of the

<sup>48</sup> *The Promise of American Life*, p. 319.

<sup>49</sup> Especially after the overwhelming defeat of the proposed New York Constitution, November 2, 1915.

<sup>50</sup> The *Appraisal of the Constitution and Government of New York* avowedly takes as a model "an ordinary joint stock company" (p. 7); the English parliamentary system is at the same time stressed (p. 13). On the other hand, Governor Hoffman (*Message*, 1871) proposed the national executive plan; Governor O'Neal in the 1911 Governors' Conference did likewise; the Illinois Efficiency and Economy Committee features the executive organization of the United States government (pp. 27-28) as does the Minnesota Efficiency and Economy Commission (preliminary report, pp. 10-11). From 1871 to date, plans of State executive reorganization have almost uniformly followed the national executive plan.

<sup>51</sup> *Public Affairs Information Service*; Vol. 2, No. 11, February 5, 1916.

New York electorate to change the status quo was not unique. But aside from the fact that the time was not ripe for executive reorganization, and that other features of the constitution were not acceptable, positive opposition to the short ballot feature was marked. Political henchmen had no time for a scheme that reduced the number of elective offices. Political bosses knew that their control of party workers depended on continuing the old order. Here was a fighting opposition; the self-interest of politicians was involved. The other chief sources of opposition were the trades unions and the rural population. These two groups, along with many other sincere, disinterested citizens, feared that the plan of executive organization was *undemocratic*. They also feared that it would give room for an *abuse of power*.

These honest doubts deserve the closest consideration. They are the two chief objections to such an executive organization as is herein proposed.

So universal has been the application of the elective principle to executive as well as legislative offices during the last half century that any suggestion of the short ballot and the appointment of administrative officers is still in many quarters held undemocratic,<sup>52</sup>—as depriving the people of their power.<sup>53</sup> The notion holds on that the citizens of a State not only have the capacity to select wisely every government officer, and any number of officials at one time, but that the popular will is more

<sup>52</sup> See Beard; *American Government and Politics*, pp. 507-8, for a sketch of this opposition. The other Jacksonian idea of rotation in office has largely been given over as a fundamental tenet of democracy.

<sup>53</sup> In the 1911 Governors' Conference this matter was considered at length. (See *Proceedings of Governors*, 1911). The following excerpts show the consensus of opinion: "It has been erroneously assumed that the views I have expressed evidence distrust of popular rule. I do not think that any statement that I have uttered is susceptible of this construction. The Governor is charged with the duty of seeing to it that the laws are faithfully executed, and yet he would be impotent to obey this constitutional mandate unless he had some power of control or supervision over executive agents. Hence, in seeking to strengthen the power of the executive I do not undertake to lessen the power of the people, for by increasing and strengthening the power of the chief magistrate we only serve the people by securing an enforcement of the law and a harmonious administrative policy." (Gov. O'Neal; *Proceedings of Governors*, 1911, p. 53.) The other governors who spoke concurred in the view that the people would not be "jealous of this discussion, because every evidence of the time is that the people of the United States desire their executives to exercise a great power. . . . and every nine persons out of every ten take it for granted that the governor possesses the very powers we are claiming that we ought to have." (Gov. Wilson, *Ibid.*, p. 49. See also pp. 18, 44-5, 51-2, 56.

completely carried out and popular rights better protected under the general system of direct election of executive officers.

It is nowhere doubted that the people of any State have the power to elect all officers, or that they have the capacity to make a wise selection of a limited number of officials. It is, however, seriously questioned whether a voter can know much about all candidates for minor positions on a ballot a yard long, and choose effectively from such a collection of names. It is extremely doubtful whether election under the long ballot system now in vogue means popular *selection*. In fact it is commonly known that the host of candidates for minor offices are placed on the ballot by party organizations and that most of us merely place our marks opposite the name Republican or Democratic; we ratify the selection made by a political machine. After we leave the polls we rarely can name the men we *chose* as State veterinarian, county sheriff, State geologist—if indeed we recall the names of the men we selected for the positions of Attorney-General, State Auditor, Treasurer, Superintendent of Public Instruction. We were not consulted about our party candidates; we were confused by the number of them; they were not conspicuous issues to be decided by us; we placed our cross opposite the name of one national party because it stands for a high protective tariff, or opposite the other party name because it spells low tariff. Thus we “selected” our State officers.

We must elect our legislators and Governor,—men who are to represent our views on questions of public policy. But we do not choose Tom Jones as Treasurer, John Doe as Attorney-General, or other administrative officers who are not issues to us at all, although we go through the form of voting for them. It is extremely doubtful whether we ought to go through the form; we could make our votes count for so much more under a different system.

If the evidence of Elihu Root, Charles E. Hughes, and other men qualified to speak of the importance of a confusingly great number of elective offices in maintaining an “invisible government,” is not sufficient, we need but consider the opposition of Tammany Hall in the November 2, 1915 election in New York to any change from the long ballot scheme.

Looking at the matter only from the standpoint of the effectiveness of our voting, and disregarding the principle we accept in our business, that a responsible executive should select his own assistants, we must see clearly that the doctrine of universal election plays us into the hands of political manipulators and gives us the shadow, not the sub-

stance of power. We do not select our executive officers; we do not control them; but any plan to reverse the process is undemocratic.

The plan of executive reorganization herein detailed, like the plan of the national executive, reverses the process. Our attention under the simplified or "short" ballot would be concentrated on a very few candidates. We would not bother about the crowd of minor officers about whom we could know little or nothing, but we would scrutinize the qualifications of the candidates for Governor (and possibly Lieutenant-Governor, and Auditor) and make an intelligent selection. Then we would hold our Governor absolutely responsible for the work of the executive department.

But could we hold the Governor responsible, or would he build up an arbitrary power? Besides, would it not be easier for a political machine to control one man than a hundred? To put so much power in the hands of one man might be dangerous. If he were controlled, boss control of the whole State executive would be secured. Here is the second great objection. It involves first the old fear of an arbitrary power such as colonial Governors exercised,—a power that so naturally alarmed the framers of our early State constitutions. But the Governor's power would not, under the proposed plan, be arbitrary. He would not be responsible to some foreign sovereign; he would be responsible to the sovereign people of the State. He could be removed by easy impeachment process or by the recall if his acts were arbitrary and unlawful. If he did nothing very much wrong but little positive good, he could be dropped at the end of his term and a more forceful executive selected. He would be jealously watched by the legislature and the newspapers, especially by the opposition party and its press. He would be subjected to their cross-fire of criticism. No official is so thick-skinned as not to feel public criticism,—certainly a man chosen with more than ordinary care for a position of extraordinary responsibility would be sensitive to public opinion. And, as a matter of fact, the possession of power coupled with a well defined and clearly understood responsibility proverbially makes for conservatism in its possessor.

"Power must be lodged somewhere if good government is to be attained. If clothing the Governor with more power should result in its misuse, we could at least place the blame where it rightly belonged."<sup>44</sup> It is far better to say "you did this" or "you did not do that," and for your act or failure to act you shall not be re-elected or shall be removed,

<sup>44</sup> L. A. Blue; *The Governor and Executive Organization in the States*, p. 46.

than it is to be forced to wonder who is responsible and let the matter drop from sheer helplessness.

This second objection to making the Governor really the chief executive involves in addition to the fear of arbitrary power the fear of a political control of the executive. In States where the two political parties have about equal strength it is clear that even if one party were to control the executive, that party would be likely to stand or fall at election time on the record of the administration. In case one party had complete possession of a State, as in Pennsylvania, there would still be factions of the party, the "ins" and the "outs"; and the faction in power could no more escape responsibility to the people for an efficient, economical administration than it could escape the criticism of the faction out of power.

*But the most striking fact is that in just such a State as Pennsylvania the Governor wants to be his own boss.* He finds it extremely irksome to have a boss over him. Witness the rage of machine politicians over the ingratitude of even minor officials they have put in power. It would be good policy to give the Governor a chance to be free from the political boss.

Under the plan proposed boss control could not be worse than under the present organization of the State executive. It is a rare commonwealth that does not now have a "power behind the throne," that does not boast someone who actually has the power without the responsibility. Under the organization herein outlined the man with the power would stand out in the public view clearly responsible. Add to this the fact that the Governor would become a popular hero every time he "broke a corrupt politician's head,"—the practice of tampering with the people's executive would soon stop. Suppose, however, that the Governor were somehow controlled by an "invisible government" and corruption were rampant; the corrupt administration could be turned out of office by removing the Governor, selecting an uncontrolled executive who would dismiss the under-officials of the previous administration, appoint his own aids, and proceed about the business of the State. Moreover, it is certain that no political party could stand the odium of having its recognized boss bring about a condition of open inefficiency and corruption more than once. What would be more likely under the proposed plan is that the political boss would become the responsible party leader, and if he were not himself the Governor, he would make sure that his party kept popular favor by providing Governors who would see that the laws

were faithfully enforced. And it must not be supposed that the criminal law would in any way be suspended by an executive reorganization; it would be the ultimate deterrent to misguided officials.

The checks, then, against arbitrary power would be:

- (1) Easy impeachment process or the recall;
- (2) Effect of public opinion on the Governor;
- (3) Conservatism developed by responsibility;
- (4) Desire of the Governor to be his own boss;
- (5) Party responsibility for an inefficient, irresponsible, extravagant, irresponsible executive;
- (6) Prison for criminal offenders.

When put over against these checks and our actual experience with the national executive—upon which the proposed plan is based—our fears about vesting the Governor with power are not well founded. The Governor could be held to a strict accountability for the manner in which he exercised the power granted him.

#### *Historical Development of Executive Organization*

The plan of State executive organization herein suggested would but extend the ideas that have already developed. The actual trend of executive change has been away from the principles of scattered power and scattered responsibility.

As has already been stated, the Governor (in colonial times) registered and executed the will of a sovereign who was an outside authority—not the people of the colonies. Consequently “the storm center of the democratic movement during the colonial period was the conflict between the governors and the colonial legislatures or assemblies.”<sup>55</sup> In the course of this struggle the people, especially through their control of finances, constantly curtailed the Governor’s power. In many cases they wrested the appointive power from him, and directed matters of public policy that had been considered part of the prerogative of the executive.<sup>56</sup> “It was on the executive branch essentially that the colonists waged their war of independence. For them it was not then a question of controlling but of destroying the executive arm.”<sup>57</sup> In brief, public opinion was squarely ranged against the colonial Governor; popular reaction to the royal executive was that of distrust, fear, antagonism.

<sup>55</sup> Merriam; *American Political Theories*, p. 34.

<sup>56</sup> *Ibid.*, p. 35.

<sup>57</sup> *Appraisal of the Constitution and Government of New York*, p. 57.



When the first State governments were formed the Governor was associated in the mind of the people with irresponsible, external control. In consequence he was put in a position to do as little harm as possible.<sup>58</sup> Short terms,<sup>59</sup> election by the legislature,<sup>60</sup> little power of appointment, restriction of the veto power,<sup>61</sup> and ineligibility for re-election were some of the checks designed to prevent any danger of executive tyranny. The legislature was exalted, the executive depressed.<sup>62</sup> A loosely coördinated system was created. The early State constitutions embodied the fears of the pre-Revolutionary period.

Gradually, in the first half of the nineteenth century, popular fear of the executive was supplanted by a suspicion of the legislature. In the Jacksonian period the alliance between the people and the legislative changed to an alliance between the people and the executive.<sup>63</sup> The electorate began to choose the Governor rather than leave his selection to the legislature.<sup>64</sup> His term of office was lengthened from one to two, three, or four years.<sup>65</sup> The veto was granted him,<sup>66</sup> and high property qualifications for office were removed. In the New York Convention of 1821 the new idea that the Governor was identified with popular interests was clearly expressed.<sup>67</sup> But throughout this half century the elective principle was being applied to all executive offices.<sup>68</sup> And something of the old fear of a strong executive showed now and again, as in the Indiana Convention of 1850. "If State officers remained long in office they would keep up a kind of State regency."<sup>69</sup> It was feared that "if State officers held for the same terms, or simultaneously, there would be collusion." The view was fre-

<sup>58</sup> Cf. Dealey; *American State Constitutions*, pp. 36-37.

<sup>59</sup> One year in N. H., N. Car., Va., Mass., N. J., Pa., Ga., Conn., R.I., and Md.

<sup>60</sup> N. J., Del., Md., Va., N. Car., S. Car., Pa., and Ga.

<sup>61</sup> Veto granted only in Mass., S. Car., and N. Y. (With Council of Revision.)

<sup>62</sup> See Merriam; *American Political Theories*, p. 80.

<sup>63</sup> *Ibid.*, pp. 182, ff.

<sup>64</sup> Pa., 1790; Del., 1792; Ga., 1824; N. Car., 1835; Md., 1837; N. J., 1844; Va., 1850.

<sup>65</sup> Pa., 1790; Ga., 1789; Va., 1830; Del., 1831; N. Car., 1835; Md., 1837; N. J., 1844.

<sup>66</sup> Ga., 1789; Pa., 1790; N. H., 1792; Conn., 1818; N. J., 1844.

<sup>67</sup> Still the Governor's power of appointment was by this convention and the one in 1846 materially reduced.

<sup>68</sup> Beard; *American Government and Politics*, p. 93.

<sup>69</sup> *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of Indiana, 1850, I, 277-278.*

quently stated that "it is easier to corrupt one man than a hundred."<sup>70</sup> If the Governor was coming to be regarded as the people's representative, there was also the desire to "break the joints" of executive organization to avoid collusion. And the idea was dominant that executive responsibility could be insured only through popular election of every executive officer.<sup>71</sup> There was a conflict between traditional fear and the new idea of the Governor as the people's representative.

The second half of the nineteenth century was marked by a distinct tendency towards executive centralization. The movement, begun in the first half of the century, to increase the Governor's powers or remove restrictive qualifications, continued.<sup>72</sup> New functions of State government resulted in the expansion of the executive department, and the Governor's appointing power grew.<sup>73</sup> The work of already established executive departments was concentrated. New executive units were from the beginning consolidated. Charitable and correctional institutions, educational, tax, financial, agricultural, labor, health authorities all show a trend towards centering power and responsibility.<sup>74</sup> Such consolidation, however, was accomplished in particular departments without an apparently conscious effort to reorganize the executive as a whole.

The present problem of State executive organization has to do with the relation of the whole department to the public. The proposed plan of reorganization would but extend throughout the entire organization the practices that developed in the last half of the nineteenth century.

#### *Similarity of Plan to City Government Reorganization*

The dissipation of power and responsibility which was found in city government throughout the period when that government as modeled after State government<sup>75</sup> has been replaced by a general plan of reorgani-

<sup>70</sup> *Report of the Debates and Proceedings of the Convention in the Revision of the Constitution of Indiana*, 1850, I, 288.

<sup>71</sup> Members of constitutional conventions were saying that they "had confidence in the people to elect their own officers." See, for example, the *Indiana Constitutional Convention Debates* 1850, I, pp. 279, 287, 312: "The oftener the people exercise their sovereign power the more safe and secure are they in their political interests, and the better contented are they. Above all let the people at short periods exercise their right of sovereignty, then all will be safe."

<sup>72</sup> Finley and Sanderson; *The American Executive*, p. 47.

<sup>73</sup> Fairlie; *The State Governor*, p. 3. See also Dealey; *American State Constitutions*, p. 165.

<sup>74</sup> See detailed information concerning these authorities in the *Report of the Illinois Efficiency and Economy Committee*; pp. 24, 25, 35, 42, 47, 51, 55, 59 and 67.

<sup>75</sup> See Rowe; *Problems of City Government*, pp. 171 ff.

zation embodying the principle of responsibility. Whether the commission plan, the city-manager plan, the small council and independent mayor plan of organization be considered, the fundamental principles of organization are similar, and they are strikingly analogous to the "first principles" herein set forth. Whether they "work" is answered by the experience of some four hundred American cities whose governments have been reorganized after one or another of the three plans. It is true that the powers and functions of city government differ from those of State government, but there is no reason why in the matter of *organization* we should disregard "a practical guide to responsible government."<sup>76</sup>

### *Analogy of Business Organization*

Any hesitancy about adopting the proposed plan of executive organization should disappear when we reflect that the principles and even many of the details are precisely the same as those of any of our business organizations. With the change of a few names in the chart of the reorganized State executive<sup>77</sup> the diagram might almost be taken to represent the organization of a business corporation. Instead of *the people* would appear *stockholders*; for the *Governor* would be written *general-manager* or *president*; department heads would change names but retain their relative positions in the organization. Granting always that the purpose of business is not the purpose of government, and that the analogy between business and government has been overworked, yet there is no reason why we should not demand the same sort of effective, responsible *organization* as we find in our every-day experience. If we have the "American genius for organization," we shall strip the State executive of its mystery, its confusion, and irresponsibility, and see to it that a common-sense organization is provided which will allow a return of a dollar's worth of goods or service to the State for every dollar invested.

### *The Argument for Executive Reorganization*

The argument for the proposed plan of executive reorganization is that it is in alignment with the unified type of executive organization common to England, France, Germany, and the other great modern States; it is modeled after the United States executive, and carries on the actual, historical development of the State executive; it involves the

<sup>76</sup> See article by this title in the *Annals American Academy*, March 1916, p. 227, by H. S. Gilbertson.

<sup>77</sup> Chapter III, p. 71.

same principles as the plans of city government reorganization; it is in keeping with our business experience, and has been agreed upon by the three groups of critics of the State executive.

*A Responsible Executive and a Responsible People*

Just as we cannot legislate ourselves into a condition of health, wealth, wisdom, or morality, so we cannot set up a *self-acting executive mechanism* that will bring in the millenium. We can expect, however, to have an agency that will be responsible for executing the will of the State, whatever that will may be. We should be rid of a system which prevents State policies from being expressed and carried out efficiently and economically. There would be a clearing up of issues, legislative and executive; the lines of responsibility would be conspicuous. But an alertness and watchfulness would be required of us. The plan puts responsibility right where it belongs, on the Governor and on us.

Our forty-eight States could be so many experiment stations for the development of good government. Surely it would not be a very hazardous experiment for one of them to adopt an organization that could not make the condition of the State executive worse, that has been proposed in several of the States, and that has reason and experience to recommend it.

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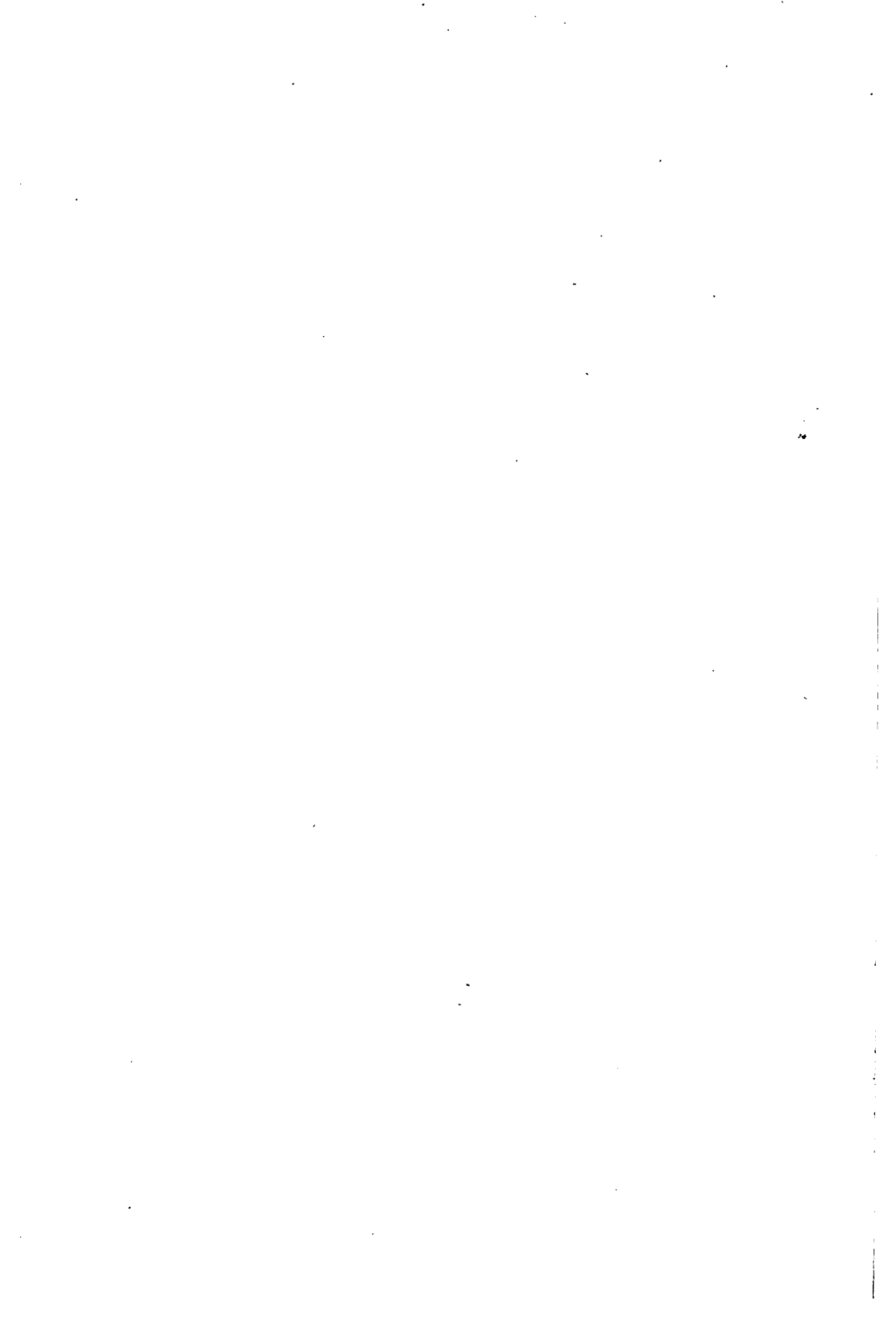
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